

SENATE BILL NO. 1406

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patrons Prior to Substitute--Senators Ebbin and Lucas and Morrissey [SB 1243])

A BILL to amend and reenact §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101.01, 4.1-101.02, 101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, as it is currently effective and as it shall become effective, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, as it is currently effective and as it shall become effective, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, as it is currently effective and as it shall become effective, 4.1-128, 4.1-200, 4.1-201, as it is currently effective and as it shall become effective, 4.1-202, 4.1-205, as it is currently effective and as it shall become effective, 4.1-206, 4.1-206.1, 4.1-206.2, 4.1-206.3, 4.1-207, 4.1-207.1, 4.1-208, 4.1-212, as it is currently effective and as it shall become effective, 4.1-213, 4.1-215, as it is currently effective and as it shall become effective, 4.1-216, as it is currently effective and as it shall become effective, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, as it is currently effective and as it shall become effective, 4.1-230, as it is currently effective and as it shall become effective, 4.1-231, 4.1-240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, as it is currently effective and as it shall become effective, 4.1-310.1, as it is currently effective and as it shall become effective, 4.1-320, 4.1-323, 4.1-324, 4.1-325, as it is currently effective and as it shall become effective, 4.1-325.2, as it is currently effective and as it shall become effective, 4.1-329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350, 4.1-351, 4.1-352, 4.1-353, 4.1-354, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-1627, 15.2-2820, 16.1-69.40:1, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-228, 16.1-260, 16.1-273,

16.1-278.8:01, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.09, 18.2-308.012, 18.2-308.016, 18.2-308.1:5, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-392.02, as it is currently effective and as it shall become effective, 19.2-392.1, 19.2-392.2, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 24.2-233, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections numbered 2.2-2499.1 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Title 4.1 a subtitle numbered II, containing chapters numbered 6 through 15, consisting of sections numbered 4.1-600 through 4.1-1503, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-107.1, by adding in Chapter 7 of Title 18.2 an article numbered 1.4, consisting of sections numbered 18.2-265.22 through 18.2-265.28, by adding a section numbered 19.2-392.2:1, and by adding a section numbered 46.2-341.20:7; and to repeal §§ 18.2-248.1, 18.2-250.1, 18.2-251.1, and 19.2-389.3 of the Code of Virginia, relating to marijuana; legalization of simple possession; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101, 4.1-101.01, 4.1-101.02, 101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, as it is currently effective and as it shall become effective, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, as it is currently effective and as it shall become effective,

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70 251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1,
71 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-
72 308.03, 18.2-308.09, 18.2-308.012, 18.2-308.016, 18.2-308.1:5, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-
73 474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.22 through
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77 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-
78 402.1 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 24 of Title 2.2
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§ 2.2-221. Position established; agencies for which responsible; additional powers and duties.

A. The position of Secretary of Public Safety and Homeland Security (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: the Virginia Alcoholic Beverage Control Authority, Virginia Cannabis Control Authority, Department of Corrections, Department of Juvenile Justice, Department of Criminal Justice Services, Department of Forensic Science, Virginia Parole Board, Department of Emergency Management, Department of State Police, Department of Fire Programs, and Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

B. The Secretary shall by reason of professional background have knowledge of law enforcement, public safety, or emergency management and preparedness issues, in addition to familiarity with the structure and operations of the federal government and of the Commonwealth.

Unless the Governor expressly reserves such power to himself, the Secretary shall:

1. Work with and through others, including federal, state, and local officials as well as the private sector, to develop a seamless, coordinated security and preparedness strategy and implementation plan.
2. Serve as the point of contact with the federal Department of Homeland Security.
3. Provide oversight, coordination, and review of all disaster, emergency management, and terrorism management plans for the state and its agencies in coordination with the Virginia Department of Emergency Management and other applicable state agencies.

107 4. Work with federal officials to obtain additional federal resources and coordinate policy
108 development and information exchange.

109 5. Work with and through appropriate members of the Governor's Cabinet to coordinate working
110 relationships between state agencies and take all actions necessary to ensure that available federal and
111 state resources are directed toward safeguarding Virginia and its citizens.

112 6. Designate a Commonwealth Interoperability Coordinator to ensure that all communications-
113 related preparedness federal grant requests from state agencies and localities are used to enhance
114 interoperability. The Secretary shall ensure that the annual review and update of the statewide
115 interoperability strategic plan is conducted as required in § 2.2-222.2. The Commonwealth Interoperability
116 Coordinator shall establish an advisory group consisting of representatives of state and local government
117 and constitutional offices, broadly distributed across the Commonwealth, who are actively engaged in
118 activities and functions related to communications interoperability.

119 7. Serve as one of the Governor's representatives on regional efforts to develop a coordinated
120 security and preparedness strategy, including the National Capital Region Senior Policy Group organized
121 as part of the federal Urban Areas Security Initiative.

122 8. Serve as a direct liaison between the Governor and local governments and first responders on
123 issues of emergency prevention, preparedness, response, and recovery.

124 9. Educate the public on homeland security and overall preparedness issues in coordination with
125 applicable state agencies.

126 10. Serve as chairman of the Secure and Resilient Commonwealth Panel.

127 11. Encourage homeland security volunteer efforts throughout the state.

128 12. Coordinate the development of an allocation formula for State Homeland Security Grant
129 Program funds to localities and state agencies in compliance with federal grant guidance and constraints.
130 The formula shall be, to the extent permissible under federal constraints, based on actual risk, threat, and
131 need.

132 13. Work with the appropriate state agencies to ensure that regional working groups are meeting
133 regularly and focusing on regional initiatives in training, equipment, and strategy to ensure ready access

to response teams in times of emergency and facilitate testing and training exercises for emergencies and mass casualty preparedness.

14. Provide oversight and review of the Virginia Department of Emergency Management's annual statewide assessment of local and regional capabilities, including equipment, training, personnel, response times, and other factors.

15. Employ, as needed, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and fix their compensation to be payable from funds made available for that purpose.

16. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, real property, or personal property for the benefit of the Commonwealth, and receive and accept from the Commonwealth or any state, any municipality, county, or other political subdivision thereof, or any other source, aid or contributions of money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made.

17. Receive and accept from any source aid, grants, and contributions of money, property, labor, or other things of value to be held, used, and applied to carry out these requirements subject to the conditions upon which the aid, grants, or contributions are made.

18. Make grants to local governments, state and federal agencies, and private entities with any funds of the Secretary available for such purpose.

19. Provide oversight and review of the law-enforcement operations of the Alcoholic Beverage Control Authority and the Virginia Cannabis Control Authority.

20. Take any actions necessary or convenient to the exercise of the powers granted or reasonably implied to this Secretary and not otherwise inconsistent with the law of the Commonwealth.

§ 2.2-507. Legal service in civil matters.

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and

performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority;

2. Agents inspecting or investigators appointed by the State Corporation Commission;

3. Agents, investigators, or auditors employed by the Department of Taxation;

4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Local and Regional Jails, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;

5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;

6. Persons employed by the Commissioner of Motor Vehicles;

188 7. Persons appointed by the Commissioner of Marine Resources;

189 8. Police officers appointed by the Superintendent of State Police;

190 9. Conservation police officers appointed by the Department of Wildlife Resources;

191 10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;

192 11. Staff members or volunteers participating in a court-appointed special advocate program
193 pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

194 12. Any emergency medical services agency that is a licensee of the Department of Health in any
195 civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged
196 errors or omissions in the discharge of his court-appointed duties;

197 13. Conservation officers of the Department of Conservation and Recreation; or

198 14. A person appointed by written order of a circuit court judge to run an existing corporation or
199 company as the judge's representative, when that person is acting in execution of a lawful order of the
200 court and the order specifically refers to this section and appoints such person to serve as an agent of the
201 Commonwealth.

202 Upon request of the affected individual, the Attorney General may represent personally or through
203 one of his assistants (i) any basic or advanced emergency medical care attendant or technician possessing
204 a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense
205 of immunity from liability is raised pursuant to § 8.01-225 or (ii) any member of the General Assembly
206 in any civil matter alleging that such member in his official capacity violated the Virginia Freedom of
207 Information Act (§ 2.2-3700 et seq.) pursuant to § 2.2-3713 or 2.2-3714.

208 C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal
209 service to be rendered by him or one of his assistants, he may employ special counsel for this purpose,
210 whose compensation shall be fixed by the Attorney General. The compensation for such special counsel
211 shall be paid out of the funds appropriated for the administration of the board, commission, division, or
212 department being represented or whose members, officers, inspectors, investigators, or other employees
213 are being represented pursuant to this section. Notwithstanding any provision of this section to the

contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

D. Nothing herein shall limit the powers granted in § 16.1-88.03.

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.) or the Cannabis Control Act (§ 4.1-600 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §

18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a petition for appeal has been granted by the Court of Appeals or a writ of error has been granted by the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

§ 2.2-1119. Cases in which purchasing through Division not mandatory.

A. Unless otherwise ordered by the Governor, the purchasing of materials, equipment, supplies, and nonprofessional services through the Division shall not be mandatory in the following cases:

1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor and materials;

2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use of The Library of Virginia or any other library in the Commonwealth supported in whole or in part by state funds;

3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be considered perishable within the meaning of this subdivision, unless so classified by the Division;

4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however, this exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

5. Materials, equipment, and supplies needed by the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority, including office stationery and supplies, office equipment, and janitorial equipment and supplies; however, coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

6. Binding and rebinding of the books and other literary materials of libraries operated by the Commonwealth or under its authority;

7. Printing of the records of the Supreme Court; and

8. Financial services, including without limitation, underwriters, financial advisors, investment advisors and banking services.

B. Telecommunications and information technology goods and services of every description shall be procured as provided by § 2.2-2012.

Article 29.

Cannabis Equity Reinvestment Board.

§ 2.2-2499.1. Cannabis Equity Reinvestment Board; purpose; membership; quorum; meetings.

A. The Cannabis Equity Reinvestment Board (the Board) is established as a policy board in the executive branch of state government. The purpose of the Board is to directly address the impact of economic disinvestment, violence, and historical overuse of criminal justice responses to community and

individual needs by providing resources to support local design and control of community-based responses to such impacts.

B. The Board shall have a total membership of 20 members that shall consist of 13 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members shall be appointed as follows: four to be appointed by the Senate Committee on Rules, one of whom shall be a person who has been previously incarcerated or convicted of a marijuana-related crime, one of whom shall be an expert in the field of public health with experience in trauma-informed care, if possible, one of whom shall be an expert in education with a focus on access to opportunities for youth in underserved communities, and one of whom shall be an expert on Virginia's foster care system; four to be appointed by the Speaker of the House of Delegates, one of whom shall be an expert in workforce development, one of whom shall be a representative from one of Virginia's historically black colleges and universities, one of whom shall be a veteran, and one of whom shall be an entrepreneur with expertise in emerging industries or access to capital for small businesses; and five to be appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a representative from the Virginia Indigent Defense Commission and four of whom shall be community-based providers or community development organization representatives who provide services to address the social determinants of health and promote community investment in communities adversely and disproportionately impacted by marijuana prohibitions, including services such as workforce development, youth mentoring and educational services, job training and placement services, and reentry services. Nonlegislative citizen members shall be citizens of the Commonwealth and reflect the racial, ethnic, and gender diversity of the Commonwealth.

The Secretaries of Education, Health and Human Resources, and Public Safety and Homeland Security, the Director of Diversity, Equity, and Inclusion, the Chief Workforce Development Advisor, and the Attorney General or their designees shall serve ex officio with voting privileges. The Chief Executive Officer of the Virginia Cannabis Control Authority or his designee shall serve ex officio without voting privileges.

Ex officio members of the Board shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.

Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Board shall be chaired by the Director of Diversity, Equity, and Inclusion or his designee. The Board shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Board shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

§ 2.2-2499.2. Compensation; expenses.

Members shall receive no compensation for the performance of their duties but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

§ 2.2-2499.3. Powers and duties of the Board.

The Cannabis Equity Reinvestment Board shall have the following powers and duties:

1. Develop and implement scholarship programs and educational and vocational resources for historically marginalized youth, including youth in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities.

2. Develop and implement a program to award grants to support workforce development programs, youth mentoring programs, job training and placement services, and reentry services that serve communities historically and disproportionately targeted by drug enforcement.

3. Administer the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4.

4. Collaborate with the Board of Directors of the Virginia Cannabis Control Authority and the Office of Diversity, Equity, and Inclusion as necessary to implement programs and provide recommendations in line with the purpose of this article.

5. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Council no later

than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

6. Perform such other activities and functions as the Governor and General Assembly may direct.

§ 2.2-2499.4. Cannabis Equity Reinvestment Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Cannabis Equity Reinvestment Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of:

1. Making whole again families and communities historically and disproportionately targeted and affected by drug enforcement;

2. Providing scholarships for the historically marginalized population of youth, particularly in underserved communities, who have been adversely impacted by substance abuse individually or within their families or communities, including the experience of incarceration of a family member convicted of a marijuana offense;

3. Awarding grants to support workforce development, youth mentoring programs, job training and placement efforts, and reentry services that serve persons residing in areas disproportionately impacted by drug enforcement;

4. Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and

5. Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501.

376 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants
377 issued by the Comptroller upon written request signed by the Director of Diversity, Equity, and Inclusion.

378 **§ 2.2-2818. Health and related insurance for state employees.**

379 A. The Department of Human Resource Management shall establish a plan, subject to the approval
380 of the Governor, for providing health insurance coverage, including chiropractic treatment,
381 hospitalization, medical, surgical and major medical coverage, for state employees and retired state
382 employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such
383 plan. The same plan shall be offered to all part-time state employees, but the total cost shall be paid by
384 such part-time employees. The Department of Human Resource Management shall administer this section.
385 The plan chosen shall provide means whereby coverage for the families or dependents of state employees
386 may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the
387 cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time
388 employee, may purchase the coverage by paying the additional cost over the cost of coverage for an
389 employee.

390 Such contribution shall be financed through appropriations provided by law.

391 B. The plan shall:

392 1. Include coverage for low-dose screening mammograms for determining the presence of occult
393 breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through
394 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually
395 to persons age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar
396 limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

397 The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated
398 specifically for mammography, including but not limited to the X-ray tube, filter, compression device,
399 screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views
400 of each breast.

401 In order to be considered a screening mammogram for which coverage shall be made available
402 under this section:

403 a. The mammogram shall be (i) ordered by a health care practitioner acting within the scope of his
404 licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance
405 organization provider; (ii) performed by a registered technologist; (iii) interpreted by a qualified
406 radiologist; and (iv) performed under the direction of a person licensed to practice medicine and surgery
407 and certified by the American Board of Radiology or an equivalent examining body. A copy of the
408 mammogram report shall be sent or delivered to the health care practitioner who ordered it;

409 b. The equipment used to perform the mammogram shall meet the standards set forth by the
410 Virginia Department of Health in its radiation protection regulations; and

411 c. The mammography film shall be retained by the radiologic facility performing the examination
412 in accordance with the American College of Radiology guidelines or state law.

413 2. Include coverage for postpartum services providing inpatient care and a home visit or visits that
414 shall be in accordance with the medical criteria, outlined in the most current version of or an official
415 update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the
416 American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic
417 Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be
418 provided incorporating any changes in such Guidelines or Standards within six months of the publication
419 of such Guidelines or Standards or any official amendment thereto.

420 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures
421 for the resolution of such complaints and shall be published and disseminated to all covered state
422 employees. The appeals process shall be compliant with federal rules and regulations governing
423 nonfederal, self-insured governmental health plans. The appeals process shall include a separate expedited
424 emergency appeals procedure that shall provide resolution within time frames established by federal law.
425 For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with
426 one or more independent review organizations to review such decisions. Independent review organizations
427 are entities that conduct independent external review of adverse benefit determinations. The Department
428 shall adopt regulations to assure that the independent review organization conducting the reviews has
429 adequate standards, credentials and experience for such review. The independent review organization shall

430 examine the final denial of claims to determine whether the decision is objective, clinically valid, and
431 compatible with established principles of health care. The decision of the independent review organization
432 shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for
433 those findings, and (iii) be final and binding if consistent with law and policy.

434 Prior to assigning an appeal to an independent review organization, the Department shall verify
435 that the independent review organization conducting the review of a denial of claims has no relationship
436 or association with ~~(i)~~ (a) the covered person or the covered person's authorized representative; ~~(ii)~~ (b) the
437 treating health care provider, or any of its employees or affiliates; ~~(iii)~~ (c) the medical care facility at which
438 the covered service would be provided, or any of its employees or affiliates; or ~~(iv)~~ (d) the development
439 or manufacture of the drug, device, procedure or other therapy that is the subject of the final denial of a
440 claim. The independent review organization shall not be a subsidiary of, nor owned or controlled by, a
441 health plan, a trade association of health plans, or a professional association of health care providers. There
442 shall be no liability on the part of and no cause of action shall arise against any officer or employee of an
443 independent review organization for any actions taken or not taken or statements made by such officer or
444 employee in good faith in the performance of his powers and duties.

445 4. Include coverage for early intervention services. For purposes of this section, "early intervention
446 services" means medically necessary speech and language therapy, occupational therapy, physical therapy
447 and assistive technology services and devices for dependents from birth to age three who are certified by
448 the Department of Behavioral Health and Developmental Services as eligible for services under Part H of
449 the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early
450 intervention services for the population certified by the Department of Behavioral Health and
451 Developmental Services shall mean those services designed to help an individual attain or retain the
452 capability to function age-appropriately within his environment, and shall include services that enhance
453 functional ability without effecting a cure.

454 For persons previously covered under the plan, there shall be no denial of coverage due to the
455 existence of a preexisting condition. The cost of early intervention services shall not be applied to any

456 contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the
457 insured during the insured's lifetime.

458 5. Include coverage for prescription drugs and devices approved by the United States Food and
459 Drug Administration for use as contraceptives.

460 6. Not deny coverage for any drug approved by the United States Food and Drug Administration
461 for use in the treatment of cancer on the basis that the drug has not been approved by the United States
462 Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been
463 prescribed, if the drug has been recognized as safe and effective for treatment of that specific type of
464 cancer in one of the standard reference compendia.

465 7. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has
466 been approved by the United States Food and Drug Administration for at least one indication and the drug
467 is recognized for treatment of the covered indication in one of the standard reference compendia or in
468 substantially accepted peer-reviewed medical literature.

469 8. Include coverage for equipment, supplies and outpatient self-management training and
470 education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-
471 using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care
472 professional legally authorized to prescribe such items under law. To qualify for coverage under this
473 subdivision, diabetes outpatient self-management training and education shall be provided by a certified,
474 registered or licensed health care professional.

475 9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive
476 breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy
477 performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish
478 symmetry between the two breasts. For persons previously covered under the plan, there shall be no denial
479 of coverage due to preexisting conditions.

480 10. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for
481 annual testing performed by any FDA-approved gynecologic cytology screening technologies.

11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen.

13. Permit any individual covered under the plan direct access to the health care services of a participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision, "special condition" means a condition or disease that is ~~(i)~~ (a) life-threatening, degenerative, or disabling and ~~(ii)~~ (b) requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist.

Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

14. Include provisions allowing employees to continue receiving health care services for a period of up to 90 days from the date of the primary care physician's notice of termination from any of the plan's provider panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except when the provider is terminated for cause.

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue through the provision of postpartum care directly related to the delivery.

Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering health services to any covered employee who is determined to be terminally ill (as defined under § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for the remainder of the employee's life for care directly related to the treatment of the terminal illness.

A provider who continues to render health care services pursuant to this subdivision shall be reimbursed in accordance with the carrier's agreement with such provider existing immediately before the provider's termination of participation.

15. Include coverage for patient costs incurred during participation in clinical trials for treatment studies on cancer, including ovarian cancer trials.

536 The reimbursement for patient costs incurred during participation in clinical trials for treatment
537 studies on cancer shall be determined in the same manner as reimbursement is determined for other
538 medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles,
539 copayments and coinsurance factors that are no less favorable than for physical illness generally.

540 For purposes of this subdivision:

541 "Cooperative group" means a formal network of facilities that collaborate on research projects and
542 have an established NIH-approved peer review program operating within the group. "Cooperative group"
543 includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer Institute
544 Community Clinical Oncology Program.

545 "FDA" means the Federal Food and Drug Administration.

546 "Multiple project assurance contract" means a contract between an institution and the federal
547 Department of Health and Human Services that defines the relationship of the institution to the federal
548 Department of Health and Human Services and sets out the responsibilities of the institution and the
549 procedures that will be used by the institution to protect human subjects.

550 "NCI" means the National Cancer Institute.

551 "NIH" means the National Institutes of Health.

552 "Patient" means a person covered under the plan established pursuant to this section.

553 "Patient cost" means the cost of a medically necessary health care service that is incurred as a
554 result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not
555 include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the
556 treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research
557 associated with the clinical trial, or (iii) the cost of the investigational drug or device.

558 Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be
559 provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such
560 treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a Phase
561 I clinical trial.

The treatment described in the previous paragraph shall be provided by a clinical trial approved by:

- a. The National Cancer Institute;
- b. An NCI cooperative group or an NCI center;
- c. The FDA in the form of an investigational new drug application;
- d. The federal Department of Veterans Affairs; or
- e. An institutional review board of an institution in the Commonwealth that has a multiple project assurance contract approved by the Office of Protection from Research Risks of the NCI.

The facility and personnel providing the treatment shall be capable of doing so by virtue of their experience, training, and expertise.

Coverage under this subdivision shall apply only if:

- (1) There is no clearly superior, noninvestigational treatment alternative;
- (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as effective as the noninvestigational alternative; and
- (3) The patient and the physician or health care provider who provides services to the patient under the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures established by the plan.

16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is appropriate.

17. Include coverage for biologically based mental illness.

For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition caused by a biological disorder of the brain that results in a clinically significant syndrome that substantially limits the person's functioning; specifically, the following diagnoses are defined as

biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic

imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

20. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each employee provided coverage pursuant to this section, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide employees covered under the plan such corrective information as may be required to electronically process a prescription claim.

21. Include coverage for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such coverage shall include follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss.

22. Notwithstanding any provision of this section to the contrary, every plan established in accordance with this section shall comply with the provisions of § 2.2-2818.2.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from

all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the employees and their beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the health insurance fund.

D. For the purposes of this section:

"Peer-reviewed medical literature" means a scientific study published only after having been critically reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has been determined by the International Committee of Medical Journal Editors to have met the Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means:

1. American Hospital Formulary Service — Drug Information;
2. National Comprehensive Cancer Network's Drugs & Biologics Compendium; or
3. Elsevier Gold Standard's Clinical Pharmacology.

"State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth; interns and residents employed by the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Virginia Commonwealth University Health System Authority as provided in § 23.1-2415; and employees of the Virginia Alcoholic Beverage Control Authority as provided in § 4.1-101.05 and the Virginia Cannabis Control Authority as provided in § 4.1-623.

E. Provisions shall be made for retired employees to obtain coverage under the above plan, including, as an option, coverage for vision and dental care. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

670 F. Any self-insured group health insurance plan established by the Department of Human Resource
671 Management that utilizes a network of preferred providers shall not exclude any physician solely on the
672 basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the
673 plan criteria established by the Department.

674 G. The plan shall include, in each planning district, at least two health coverage options, each
675 sponsored by unrelated entities. No later than July 1, 2006, one of the health coverage options to be
676 available in each planning district shall be a high deductible health plan that would qualify for a health
677 savings account pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

678 In each planning district that does not have an available health coverage alternative, the
679 Department shall voluntarily enter into negotiations at any time with any health coverage provider who
680 seeks to provide coverage under the plan.

681 This subsection shall not apply to any state agency authorized by the Department to establish and
682 administer its own health insurance coverage plan separate from the plan established by the Department.

683 H. Any self-insured group health insurance plan established by the Department of Human
684 Resource Management that includes coverage for prescription drugs on an outpatient basis may apply a
685 formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed
686 at least annually, and updated as necessary in consultation with and with the approval of a pharmacy and
687 therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii)
688 physicians, and (iii) other health care providers.

689 If the plan maintains one or more drug formularies, the plan shall establish a process to allow a
690 person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs in
691 the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable investigation
692 and consultation with the prescriber, the formulary drug is determined to be an inappropriate therapy for
693 the medical condition of the person. The plan shall act on such requests within one business day of receipt
694 of the request.

695 Any plan established in accordance with this section shall be authorized to provide for the selection
696 of a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered

697 to the covered person's address by mail, common carrier, or delivery service. As used in this subsection,
698 "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth
699 whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to
700 deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

701 I. Any plan established in accordance with this section requiring preauthorization prior to
702 rendering medical treatment shall have personnel available to provide authorization at all times when such
703 preauthorization is required.

704 J. Any plan established in accordance with this section shall provide to all covered employees
705 written notice of any benefit reductions during the contract period at least 30 days before such reductions
706 become effective.

707 K. No contract between a provider and any plan established in accordance with this section shall
708 include provisions that require a health care provider or health care provider group to deny covered
709 services that such provider or group knows to be medically necessary and appropriate that are provided
710 with respect to a covered employee with similar medical conditions.

711 L. The Department of Human Resource Management shall appoint an Ombudsman to promote
712 and protect the interests of covered employees under any state employee's health plan.

713 The Ombudsman shall:

714 1. Assist covered employees in understanding their rights and the processes available to them
715 according to their state health plan.

716 2. Answer inquiries from covered employees by telephone and electronic mail.

717 3. Provide to covered employees information concerning the state health plans.

718 4. Develop information on the types of health plans available, including benefits and complaint
719 procedures and appeals.

720 5. Make available, either separately or through an existing Internet web site utilized by the
721 Department of Human Resource Management, information as set forth in subdivision 4 and such
722 additional information as he deems appropriate.

723 6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the
724 disposition of each such matter.

725 7. Upon request, assist covered employees in using the procedures and processes available to them
726 from their health plan, including all appeal procedures. Such assistance may require the review of health
727 care records of a covered employee, which shall be done only in accordance with the federal Health
728 Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical
729 records shall be maintained in accordance with the confidentiality and disclosure laws of the
730 Commonwealth.

731 8. Ensure that covered employees have access to the services provided by the Ombudsman and
732 that the covered employees receive timely responses from the Ombudsman or his representatives to the
733 inquiries.

734 9. Report annually on his activities to the standing committees of the General Assembly having
735 jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of
736 each year.

737 M. The plan established in accordance with this section shall not refuse to accept or make
738 reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered
739 employee.

740 For purposes of this subsection, "assignment of benefits" means the transfer of dental care
741 coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be
742 effective until the covered employee notifies the plan in writing of the assignment.

743 N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an
744 identification number, which shall be assigned to the covered employee and shall not be the same as the
745 employee's social security number.

746 O. Any group health insurance plan established by the Department of Human Resource
747 Management that contains a coordination of benefits provision shall provide written notification to any
748 eligible employee as a prominent part of its enrollment materials that if such eligible employee is covered
749 under another group accident and sickness insurance policy, group accident and sickness subscription

contract, or group health care plan for health care services, that insurance policy, subscription contract or health care plan may have primary responsibility for the covered expenses of other family members enrolled with the eligible employee. Such written notification shall describe generally the conditions upon which the other coverage would be primary for dependent children enrolled under the eligible employee's coverage and the method by which the eligible enrollee may verify from the plan that coverage would have primary responsibility for the covered expenses of each family member.

P. Any plan established by the Department of Human Resource Management pursuant to this section shall provide that coverage under such plan for family members enrolled under a participating state employee's coverage shall continue for a period of at least 30 days following the death of such state employee.

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating physician or osteopath shall (i) include language in the member handbook that notifies the covered employee of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include this language with any such payment sent to the covered employee or covered family member, and (iii) include the name and any last known address of the nonparticipating provider on the explanation of benefits statement.

R. The Department of Human Resource Management shall report annually, by November 30 of each year, on cost and utilization information for each of the mandated benefits set forth in subsection B, including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this section. The report shall be in the same detail and form as required of reports submitted pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial impact, including the costs and benefits, of the particular mandated benefit.

§ 2.2-2905. Certain officers and employees exempt from chapter.

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;

- 777 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
778 house thereof is required or not;
- 779 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 780 5. Members of boards and commissions however selected;
- 781 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
782 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
783 notaries public;
- 784 7. Officers and employees of the General Assembly and persons employed to conduct temporary
785 or special inquiries, investigations, or examinations on its behalf;
- 786 8. The presidents and teaching and research staffs of state educational institutions;
- 787 9. Commissioned officers and enlisted personnel of the National Guard;
- 788 10. Student employees at institutions of higher education and patient or inmate help in other state
789 institutions;
- 790 11. Upon general or special authorization of the Governor, laborers, temporary employees, and
791 employees compensated on an hourly or daily basis;
- 792 12. County, city, town, and district officers, deputies, assistants, and employees;
- 793 13. The employees of the Virginia Workers' Compensation Commission;
- 794 14. The officers and employees of the Virginia Retirement System;
- 795 15. Employees whose positions are identified by the State Council of Higher Education and the
796 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown
797 Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New
798 College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and
799 approved by the Director of the Department of Human Resource Management as requiring specialized
800 and professional training;
- 801 16. Employees of the Virginia Lottery;
- 802 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing
803 and service industries who have a human resources classification of industry worker;

- 804 18. Employees of the Virginia Commonwealth University Health System Authority;
- 805 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans
806 for such employees shall be subject to the review and approval of the Board of Visitors of the University
807 of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
808 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
809 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 810 20. In executive branch agencies the employee who has accepted serving in the capacity of chief
811 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential
812 assistant for policy or administration. An employee serving in either one of these two positions shall be
813 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in
814 this exempt capacity;
- 815 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
816 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 817 22. Officers and employees of the Virginia Port Authority;
- 818 23. Employees of the Virginia College Savings Plan;
- 819 24. Directors of state facilities operated by the Department of Behavioral Health and
820 Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a
821 contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State
822 Grievance Procedure (§ 2.2-3000 et seq.);
- 823 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as
824 state employees for purposes of participation in the Virginia Retirement System, health insurance, and all
825 other employee benefits offered by the Commonwealth to its classified employees;
- 826 26. Employees of the Virginia Indigent Defense Commission;
- 827 27. Any chief of a campus police department that has been designated by the governing body of a
828 public institution of higher education as exempt, pursuant to § 23.1-809;
- 829 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic
830 Beverage Control Authority; ~~and~~

29. The Chief Executive Officer, agents, officers, and employees of the Virginia Cannabis Control Authority; and

30. Officers and employees of the Fort Monroe Authority.

§ 2.2-3114. Disclosure by state officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, members of the Board of Directors of the Virginia Cannabis Control Authority, members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be

857 required to file a disclosure form if so designated by the Governor, in which case the form shall be that
858 prescribed by the Council pursuant to § 2.2-3118.

859 C. The disclosure forms required by subsections A and B shall be made available by the Council
860 at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council
861 in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as
862 public records for five years in the office of the Council. Such forms shall be made public no later than
863 six weeks after the filing deadline.

864 D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a
865 disclosure statement of their personal interests as required by § 24.2-502.

866 E. Any officer or employee of state government who has a personal interest in any transaction
867 before the governmental or advisory agency of which he is an officer or employee and who is disqualified
868 from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to
869 disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name
870 and address of the business and the address or parcel number for the real estate if the interest involves a
871 business or real estate, and his disclosure shall also be reflected in the public records of the agency for
872 five years in the office of the administrative head of the officer's or employee's governmental agency or
873 advisory agency or, if the agency has a clerk, in the clerk's office.

874 F. An officer or employee of state government who is required to declare his interest pursuant to
875 subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the
876 nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member
877 of a business, profession, occupation, or group the members of which are affected by the transaction, and
878 (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer
879 or employee shall either make his declaration orally to be recorded in written minutes for his agency or
880 file a signed written declaration with the clerk or administrative head of his governmental or advisory
881 agency, as appropriate, who shall, in either case, retain and make available for public inspection such
882 declaration for a period of five years from the date of recording or receipt. If reasonable time is not

available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§

909 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of
910 Criminal Justice Services.

911 2. Records of active investigations being conducted by the Department of Health Professions or
912 by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

913 3. Investigator notes, and other correspondence and information, furnished in confidence with
914 respect to an active investigation of individual employment discrimination complaints made to the
915 Department of Human Resource Management, to such personnel of any local public body, including local
916 school boards, as are responsible for conducting such investigations in confidence, or to any public
917 institution of higher education. However, nothing in this subdivision shall prevent the disclosure of
918 information taken from inactive reports in a form that does not reveal the identity of charging parties,
919 persons supplying the information, or other individuals involved in the investigation.

920 4. Records of active investigations being conducted by the Department of Medical Assistance
921 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

922 5. Investigative notes and other correspondence and information furnished in confidence with
923 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice
924 under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in
925 accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior
926 to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations
927 commissions. However, nothing in this subdivision shall prevent the distribution of information taken
928 from inactive reports in a form that does not reveal the identity of the parties involved or other persons
929 supplying information.

930 6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents,
931 (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or
932 regulations that cause abuses in the administration and operation of the lottery and any evasions of such
933 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where
934 such information has not been publicly released, published or copyrighted. All studies and investigations

935 referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of
936 the study or investigation.

937 7. Investigative notes, correspondence and information furnished in confidence, and records
938 otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the
939 Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate
940 authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud
941 and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector
942 General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an
943 investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the
944 head of a state agency or by any public institution of higher education; (vi) the committee or the auditor
945 with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed
946 by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or
947 statute have responsibility for conducting an investigation of any officer, department, or program of such
948 body. Information contained in completed investigations shall be disclosed in a form that does not reveal
949 the identity of the complainants or persons supplying information to investigators. Unless disclosure is
950 excluded by this subdivision, the information disclosed shall include the agency involved, the identity of
951 the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve
952 the complaint. If an investigation does not lead to corrective action, the identity of the person who is the
953 subject of the complaint may be released only with the consent of the subject person. Local governing
954 bodies shall adopt guidelines to govern the disclosure required by this subdivision.

955 8. The names, addresses, and telephone numbers of complainants furnished in confidence with
956 respect to an investigation of individual zoning enforcement complaints or complaints relating to the
957 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
958 seq.) made to a local governing body.

959 9. Records of active investigations being conducted by the Department of Criminal Justice
960 Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185
961 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

962 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of §
963 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
964 unauthorized alteration, or improper administration of tests by local school board employees responsible
965 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of
966 such information to (i) a local school board or division superintendent for the purpose of permitting such
967 board or superintendent to consider or to take personnel action with regard to an employee or (ii) any
968 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity
969 of any person making a complaint or supplying information to the Board on a confidential basis and (b)
970 does not compromise the security of any test mandated by the Board.

971 11. Information contained in (i) an application for licensure or renewal of a license for teachers
972 and other school personnel, including transcripts or other documents submitted in support of an
973 application, and (ii) an active investigation conducted by or for the Board of Education related to the
974 denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel
975 licenses including investigator notes and other correspondence and information, furnished in confidence
976 with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a)
977 application information to the applicant at his own expense or (b) investigation information to a local
978 school board or division superintendent for the purpose of permitting such board or superintendent to
979 consider or to take personnel action with regard to an employee. Information contained in completed
980 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person
981 supplying information to investigators. The completed investigation information disclosed shall include
982 information regarding the school or facility involved, the identity of the person who was the subject of the
983 complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation
984 fails to support a complaint or does not lead to corrective action, the identity of the person who was the
985 subject of the complaint may be released only with the consent of the subject person. No personally
986 identifiable information regarding a current or former student shall be released except as permitted by
987 state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if

1014 such student, parents, or guardians so request in writing and such request is submitted to the presiding
1015 officer of the appropriate board.

1016 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
1017 disposition of publicly held real property, where discussion in an open meeting would adversely affect the
1018 bargaining position or negotiating strategy of the public body.

1019 4. The protection of the privacy of individuals in personal matters not related to public business.

1020 5. Discussion concerning a prospective business or industry or the expansion of an existing
1021 business or industry where no previous announcement has been made of the ~~business'~~ business's or
1022 industry's interest in locating or expanding its facilities in the community.

1023 6. Discussion or consideration of the investment of public funds where competition or bargaining
1024 is involved, where, if made public initially, the financial interest of the governmental unit would be
1025 adversely affected.

1026 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to
1027 actual or probable litigation, where such consultation or briefing in open meeting would adversely affect
1028 the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable
1029 litigation" means litigation that has been specifically threatened or on which the public body or its legal
1030 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this
1031 subdivision shall be construed to permit the closure of a meeting merely because an attorney representing
1032 the public body is in attendance or is consulted on a matter.

1033 8. Consultation with legal counsel employed or retained by a public body regarding specific legal
1034 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
1035 construed to permit the closure of a meeting merely because an attorney representing the public body is
1036 in attendance or is consulted on a matter.

1037 9. Discussion or consideration by governing boards of public institutions of higher education of
1038 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
1039 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
1040 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and

1041 accepted by a public institution of higher education in the Commonwealth shall be subject to public
1042 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
1043 (i) "foreign government" means any government other than the United States government or the
1044 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
1045 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the
1046 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
1047 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under
1048 the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or
1049 national of the United States or a trust territory or protectorate thereof.

1050 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
1051 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority,
1052 and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private
1053 sources.

1054 11. Discussion or consideration of honorary degrees or special awards.

1055 12. Discussion or consideration of tests, examinations, or other information used, administered, or
1056 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

1057 13. Discussion, consideration, or review by the appropriate House or Senate committees of
1058 possible disciplinary action against a member arising out of the possible inadequacy of the disclosure
1059 statement filed by the member, provided the member may request in writing that the committee meeting
1060 not be conducted in a closed meeting.

1061 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or
1062 to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
1063 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position
1064 of the governing body or the establishment of the terms, conditions and provisions of the siting agreement,
1065 or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

1066 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
1067 activity and estimating general and nongeneral fund revenues.

1068 16. Discussion or consideration of medical and mental health records subject to the exclusion in
1069 subdivision 1 of § 2.2-3705.5.

1070 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
1071 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
1072 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
1073 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
1074 and subdivision 11 of § 2.2-3705.7.

1075 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or
1076 discloses the identity of, or information tending to identify, any prisoner who (i) provides information
1077 about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or
1078 in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
1079 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

1080 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
1081 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
1082 or emergency service officials concerning actions taken to respond to such matters or a related threat to
1083 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,
1084 where discussion in an open meeting would jeopardize the safety of any person or the security of any
1085 facility, building, structure, information technology system, or software program; or discussion of reports
1086 or plans related to the security of any governmental facility, building or structure, or the safety of persons
1087 using such facility, building or structure.

1088 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30,
1089 or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
1090 trustees of a trust established by one or more local public bodies to invest funds for postemployment
1091 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2,
1092 or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board
1093 of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or
1094 disposition of a security or other ownership interest in an entity, where such security or ownership interest

1095 is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i)
1096 concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared
1097 by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings
1098 Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia
1099 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or
1100 the future financial performance of the entity, and (ii) would have an adverse effect on the value of the
1101 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of
1102 trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing
1103 in this subdivision shall be construed to prevent the disclosure of information relating to the identity of
1104 any investment held, the amount invested or the present value of such investment.

1105 21. Those portions of meetings in which individual child death cases are discussed by the State
1106 Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
1107 individual child death cases are discussed by a regional or local child fatality review team established
1108 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
1109 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
1110 which individual adult death cases are discussed by the state Adult Fatality Review Team established
1111 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
1112 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
1113 meetings in which individual death cases are discussed by overdose fatality review teams established
1114 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are
1115 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of
1116 meetings in which individual death cases of persons with developmental disabilities are discussed by the
1117 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

1118 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
1119 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
1120 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
1121 Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary,

business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

1149 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
1150 Professional and Occupational Regulation, Department of Health Professions, or the Board of
1151 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a
1152 decision or meetings of health regulatory boards or conference committees of such boards to consider
1153 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
1154 requested by either of the parties.

1155 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-
1156 3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in
1157 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
1158 public entity concerning such records.

1159 29. Discussion of the award of a public contract involving the expenditure of public funds,
1160 including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
1161 discussion in an open session would adversely affect the bargaining position or negotiating strategy of the
1162 public body.

1163 30. Discussion or consideration of grant or loan application information subject to the exclusion
1164 in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

1165 31. Discussion or consideration by the Commitment Review Committee of information subject to
1166 the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
1167 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1168 32. Discussion or consideration of confidential proprietary information and trade secrets developed
1169 and held by a local public body providing certain telecommunication services or cable television services
1170 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
1171 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
1172 seq.).

1173 33. Discussion or consideration by a local authority created in accordance with the Virginia
1174 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade
1175 secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1176 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting
1177 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

1178 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory
1179 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal
1180 investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

1181 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
1182 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and
1183 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and
1184 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or
1185 recover scholarship awards.

1186 37. Discussion or consideration by the Virginia Port Authority of information subject to the
1187 exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the
1188 Virginia Port Authority.

1189 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
1190 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
1191 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
1192 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory
1193 Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of
1194 § 2.2-3705.7.

1195 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-
1196 3705.6 related to economic development.

1197 40. Discussion or consideration by the Board of Education of information relating to the denial,
1198 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1199 41. Those portions of meetings of the Virginia Military Advisory Council or any commission
1200 created by executive order for the purpose of studying and making recommendations regarding preventing
1201 closure or realignment of federal military and national security installations and facilities located in
1202 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization

1203 appointed by a local governing body, during which there is discussion of information subject to the
1204 exclusion in subdivision 8 of § 2.2-3705.2.

1205 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
1206 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
1207 information of donors.

1208 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
1209 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information
1210 contained in grant applications.

1211 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
1212 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
1213 charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain
1214 proprietary information of a private entity provided to the Authority.

1215 45. Discussion or consideration of personal and proprietary information related to the resource
1216 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)
1217 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records
1218 that contain information that has been certified for release by the person who is the subject of the
1219 information or transformed into a statistical or aggregate form that does not allow identification of the
1220 person who supplied, or is the subject of, the information.

1221 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage
1222 Control Authority or the Board of Directors of the Virginia Cannabis Control Authority of information
1223 subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses
1224 and permits and of licensees and permittees.

1225 47. Discussion or consideration of grant, loan, or investment application records subject to the
1226 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-
1227 2351 et seq.) of Chapter 22.

1228 48. Discussion or development of grant proposals by a regional council established pursuant to
1229 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and
1230 Opportunity Board.

1231 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
1232 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
1233 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
1234 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
1235 §§ 15.2-1627.5 and 63.2-1605.

1236 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
1237 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
1238 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
1239 subdivision 33 of § 2.2-3705.7.

1240 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
1241 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
1242 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
1243 § 60.2-114.

1244 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership
1245 Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the
1246 Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1247 53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
1248 § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion,
1249 consideration, or review of matters related to investigations exempt from disclosure under subdivision 1
1250 of § 2.2-3705.3.

1251 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007
1252 regarding the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting
1253 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
1254 disclosure under subdivision 1 of § 2.2-3705.3.

1255 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
1256 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
1257 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
1258 motion that shall have its substance reasonably identified in the open meeting.

1259 C. Public officers improperly selected due to the failure of the public body to comply with the
1260 other provisions of this section shall be de facto officers and, as such, their official actions are valid until
1261 they obtain notice of the legal defect in their election.

1262 D. Nothing in this section shall be construed to prevent the holding of conferences between two or
1263 more public bodies, or their representatives, but these conferences shall be subject to the same procedures
1264 for holding closed meetings as are applicable to any other public body.

1265 E. This section shall not be construed to (i) require the disclosure of any contract between the
1266 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§
1267 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to
1268 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered
1269 to issue industrial revenue bonds by general or special law, to identify a business or industry to which
1270 subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record
1271 at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

1272 **§ 2.2-3802. Systems to which chapter inapplicable.**

1273 The provisions of this chapter shall not apply to personal information systems:

- 1274 1. Maintained by any court of the Commonwealth;
- 1275 2. Which may exist in publications of general circulation;
- 1276 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137
1277 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police
1278 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to
1279 be posted on the Internet pursuant to § 9.1-913;
- 1280 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
1281 16.1-225;

1282 5. Maintained by agencies concerning persons required by law to be licensed in the
1283 Commonwealth to engage in the practice of any profession, in which case the names and addresses of
1284 persons applying for or possessing the license may be disseminated upon written request to a person
1285 engaged in the profession or business of offering professional educational materials or courses for the sole
1286 purpose of providing the licensees or applicants for licenses with informational materials relating solely
1287 to available professional educational materials or courses, provided the disseminating agency is
1288 reasonably assured that the use of the information will be so limited;

1289 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review
1290 Commission, the Virginia Racing Commission, ~~and~~ the Virginia Alcoholic Beverage Control Authority,
1291 and the Virginia Cannabis Control Authority;

1292 7. Maintained by any of the following and that deal with investigations and intelligence gathering
1293 related to criminal activity:

1294 a. The Department of State Police;

1295 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;

1296 c. Police departments of cities, counties, and towns;

1297 d. Sheriff's departments of counties and cities;

1298 e. Campus police departments of public institutions of higher education as established by Article
1299 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

1300 f. The Division of Capitol Police.

1301 8. Maintained by local departments of social services regarding alleged cases of child abuse or
1302 neglect while such cases are also subject to an ongoing criminal prosecution;

1303 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

1304 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the
1305 promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons
1306 requesting information on those subjects may be disseminated upon written request to a person engaged
1307 in the business of providing travel services or distributing travel information, provided the Virginia
1308 Tourism Authority is reasonably assured that the use of the information will be so limited;

1309 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General
1310 Services and the Department of Forensic Science, which deal with scientific investigations relating to
1311 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

1312 12. Maintained by the Department of Corrections or the Office of the State Inspector General that
1313 deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2
1314 (§ 2.2-307 et seq.);

1315 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of
1316 state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste
1317 and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town
1318 or a school board that deals with local investigations required by § 15.2-2511.2;

1319 14. Maintained by the Department of Social Services or any local department of social services
1320 relating to public assistance fraud investigations;

1321 15. Maintained by the Department of Social Services related to child welfare or public assistance
1322 programs when requests for personal information are made to the Department of Social Services. Requests
1323 for information from these systems shall be made to the appropriate local department of social services
1324 that is the custodian of that record. Notwithstanding the language in this section, an individual shall not
1325 be prohibited from obtaining information from the central registry in accordance with the provisions of §
1326 63.2-1515; and

1327 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services,
1328 adult protective services, or auxiliary grants when requests for personal information are made to the
1329 Department for Aging and Rehabilitative Services. Requests for information from these systems shall be
1330 made to the appropriate local department of social services that is the custodian of that record.

1331 **§ 2.2-4024. Hearing officers.**

1332 A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided
1333 over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court
1334 and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-
1335 finding proceedings conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a

1336 hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The
1337 Executive Secretary may promulgate rules necessary for the administration of the hearing officer system
1338 and shall have the authority to establish the number of hearing officers necessary to preside over
1339 administrative hearings in the Commonwealth.

1340 Prior to being included on the list, all hearing officers shall meet the following minimum standards:

- 1341 1. Active membership in good standing in the Virginia State Bar;
1342 2. Active practice of law for at least five years; and
1343 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court.

1344 In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the
1345 Executive Secretary may require additional training before a hearing officer shall be assigned to a
1346 proceeding before that agency.

1347 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer
1348 from the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting
1349 geographic preference and specialized training or knowledge shall be maintained by the Executive
1350 Secretary if an agency demonstrates the need.

1351 C. A hearing officer appointed in accordance with this section shall be subject to disqualification
1352 as provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-
1353 4024.1, the petitioning party may request reconsideration of the denial by filing a written request with the
1354 Executive Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with
1355 particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or
1356 the applicable rule of practice requiring disqualification.

1357 The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

1358 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a
1359 case decision matter shall render that recommendation or conclusion as follows:

- 1360 1. If the agency's written regulations or procedures require the hearing officer to render a
1361 recommendation or conclusion within a specified time period, the hearing officer shall render the
1362 recommendation or conclusion on or before the expiration of the specified period; and

1363 2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90
1364 days from the date of the case decision proceeding or from a later date agreed to by the named party and
1365 the agency.

1366 If the hearing officer does not render a decision within the time required by this subsection, then
1367 the agency or the named party to the case decision may provide written notice to the hearing officer and
1368 the Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days
1369 from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall
1370 remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State
1371 Bar for possible disciplinary action, unless good cause is shown for the delay.

1372 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause
1373 after written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render
1374 a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for
1375 the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary
1376 for reconsideration, followed by judicial review in accordance with this chapter.

1377 F. This section shall not apply to hearings conducted by (i) any commission or board where all of
1378 the members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, the
1379 Virginia Cannabis Control Authority, the Virginia Workers' Compensation Commission, the State
1380 Corporation Commission, the Virginia Employment Commission, the Department of Motor Vehicles
1381 under Title 46.2 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the
1382 Motor Vehicle Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a
1383 health regulatory board convened pursuant to § 54.1-2400, including any panel having members of a
1384 relevant advisory board to the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§
1385 65.2-201 and 65.2-203 by the Virginia Workers' Compensation Commission to conduct hearings pursuant
1386 to its basic laws shall meet the minimum qualifications set forth in subsection A. Agency employees who
1387 are not licensed to practice law in the Commonwealth, and are presiding as hearing officers in proceedings
1388 pursuant to clause (ii) shall participate in periodic training courses.

1389 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to
1390 hearing officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife
1391 Resources, the Virginia Housing Development Authority, the Milk Commission, and the Virginia
1392 Resources Authority pursuant to their basic laws.

1393 **§ 3.2-1010. Enforcement of chapter; summons.**

1394 Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding
1395 certain members of the Virginia Alcoholic Beverage Control Authority and the Virginia Cannabis Control
1396 Authority, may enforce the provisions of this chapter and the regulations adopted hereunder as well as
1397 those who are so designated by the Commissioner. Those designated by the Commissioner may issue a
1398 summons to any person who violates any provision of this chapter to appear at a time and place to be
1399 specified in such summons.

1400 **§ 3.2-3906. Board to adopt regulations.**

1401 The Board may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.),
1402 including:

- 1403 1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply
1404 pesticides;
- 1405 2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
- 1406 3. Requiring reporting and record keeping related to licensing and registration;
- 1407 4. Establishing training, testing and standards for certification of commercial applicators,
1408 registered technicians, and private applicators;
- 1409 5. Revoking, suspending or denying licenses (business), registration (products), and certification
1410 or certificate (applicators or technicians);
- 1411 6. Requiring licensees and certificate holders to inform the public when using pesticides in and
1412 around structures;
- 1413 7. Establishing a fee structure for licensure, registration and certification to defray the costs of
1414 implementing this chapter;

1415 8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such
1416 classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial,
1417 institutional, structural or health-related pest control;

1418 9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or
1419 residuals that: (i) undesirably persists in the environment or increases due to biological amplification or
1420 unreasonable adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man,
1421 animal, bird or plant may be contrary to the public interest;~~and~~

1422 10. Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in
1423 compliance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 or Subtitle II (§ 4.1-600 et seq.) of Title
1424 4.1; and

1425 11. Other regulations necessary or convenient to carry out the purposes of this chapter.

1426 **§ 3.2-4112. Definitions.**

1427 As used in this chapter, unless the context requires a different meaning:

1428 "Cannabis sativa product" means a product made from any part of the plant Cannabis sativa,
1429 including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer,
1430 whether growing or not, with a concentration of tetrahydrocannabinol that is greater than that allowed by
1431 federal law.

1432 "Deal" means to buy industrial hemp grown in compliance with state or federal law and to sell
1433 such industrial hemp to a person who (i) processes industrial hemp in compliance with state or federal law
1434 or (ii) sells industrial hemp to a person who processes industrial hemp in compliance with state or federal
1435 law.

1436 "Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in
1437 industrial hemp. "Dealer" does not include (i) a grower, (ii) a processor, or (iii) any person who buys
1438 industrial hemp for personal use or retail sale in Virginia.

1439 "Dealership" means the location at which a dealer stores or intends to store the industrial hemp in
1440 which he deals.

1441 "Grow" means to plant, cultivate, or harvest a plant or crop.

1442 "Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial
1443 hemp.

1444 "Hemp product" means ~~any finished a product that is otherwise lawful and~~ that contains industrial
1445 hemp, ~~including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil~~
1446 ~~containing an industrial hemp extract, or food or food additives for human consumption and has completed~~
1447 all stages of processing needed for the product.

1448 "Hemp product intended for smoking" means any hemp product intended to be consumed by
1449 inhalation.

1450 "Hemp testing laboratory" means a laboratory licensed pursuant to subsection A of § 3.2-4117.1
1451 to test hemp products or a marijuana testing facility as defined in § 4.1-600.

1452 "Industrial hemp" means any part of the plant Cannabis sativa, including seeds thereof ~~and any~~
1453 ~~derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer,~~ whether growing or not, with a
1454 concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. "Industrial
1455 hemp" includes an industrial hemp extract that has not completed all stages of processing needed to
1456 convert the extract into a hemp product.

1457 "Process" means to convert industrial hemp into a hemp product.

1458 "Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial
1459 hemp.

1460 "Process site" means the location at which a processor processes or intends to process industrial
1461 hemp.

1462 "Production field" means the land or area on which a grower is growing or intends to grow
1463 industrial hemp.

1464 **§ 3.2-4113. Production of industrial hemp lawful.**

1465 A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or
1466 his agent to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent,
1467 dealer or his agent, or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of
1468 Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, or 18.2-250.1 for the possession,

1469 growing, dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in
1470 any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of
1471 Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate
1472 any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the
1473 burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

1474 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or
1475 regulation.

1476 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247,
1477 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250, or ~~18.2-250.1~~ for the involuntary growth of industrial
1478 hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production
1479 field, dealership, or process site.

1480 **§ 3.2-4114. Regulations.**

1481 A. The Board may adopt regulations pursuant to this chapter as necessary to register persons to
1482 grow, deal in, or process industrial hemp or implement the provisions of this chapter.

1483 B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final
1484 rule regarding industrial hemp that materially expands opportunities for growing, producing, or dealing in
1485 industrial hemp in the Commonwealth, the Board shall immediately adopt amendments conforming
1486 Department regulations to such federal final rule. Such adoption of regulations by the Board shall be
1487 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

1488 C. The Board shall adopt regulations (i) establishing acceptable testing practices for hemp products
1489 intended for smoking and hemp products that are an industrial hemp extract intended for human
1490 consumption, (ii) identifying the contaminants for which hemp products intended for smoking and hemp
1491 products that are an industrial hemp extract intended for human consumption shall be tested, and (iii)
1492 establishing the maximum level of allowable contamination for each contaminant.

1493 D. The Board shall adopt regulations establishing (i) labeling and packaging requirements for a
1494 hemp product intended for smoking and a hemp product that is an industrial hemp extract intended for

human consumption and (ii) advertising requirements for a hemp product intended for smoking and a hemp product that is an industrial hemp extract intended for human consumption.

E. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the regulations adopted pursuant to subsection C or D. Prior to adopting any regulation pursuant to subsection C or D, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations adopted pursuant to subsection C or D. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to subsection C or D.

§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.

A. The Commissioner may charge a nonrefundable fee not to exceed \$50 for any application for registration or license or renewal of registration or license allowed under this chapter. The Commissioner may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter. All fees collected by the Commissioner shall be deposited in the state treasury.

B. The Commissioner shall notify the Superintendent of State Police of the locations of all industrial hemp production fields, dealerships, ~~and~~ process sites, and hemp testing laboratories.

C. The Commissioner shall forward a copy or appropriate electronic record of each registration or license issued by the Commissioner under this chapter to the chief law-enforcement officer of the county or city where industrial hemp will be grown, dealt, or processed or where a hemp testing laboratory will be located.

D. The Commissioner shall be responsible for monitoring the industrial hemp grown, dealt, or processed by a person registered pursuant to subsection A of § 3.2-4115 and shall provide for random

testing of the industrial hemp, at the cost of the grower, dealer, or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field, dealership, or process site during normal business hours without advance notice if he has reason to believe a violation of this chapter is occurring or has occurred.

E. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

F. Notwithstanding the provisions of subsection E, if the provisions of subdivisions 1 and 2 are included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:

1. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.

2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6 percent but less than one percent, the Commissioner shall allow the grower, dealer, or processor to request that the Cannabis sativa be sampled and tested again before he requires its destruction.

G. The Commissioner shall advise the Attorney General of the United States and the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than negligence, a grower grows, a dealer deals in, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor produces a Cannabis sativa product.

1549 H. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement
1550 Administration or appropriate federal agency that he determines to be necessary for the advancement of
1551 the industrial hemp industry.

1552 I. The Commissioner may establish a corrective action plan to address a negligent violation of any
1553 provision of this chapter.

1554 **§ 3.2-4116. Registration conditions.**

1555 A. A person shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing,
1556 dealing in, or processing any industrial hemp in the Commonwealth.

1557 B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1558 1. Maintain records that reflect compliance with this chapter and with all other state or federal laws
1559 regulating the growing, dealing in, or processing of industrial hemp;

1560 2. Retain all industrial hemp growing, dealing, or processing records for at least three years;

1561 3. Allow his production field, dealership, or process site to be inspected by and at the discretion of
1562 the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer
1563 of the locality in which the production field or dealership or process site exists;

1564 4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's
1565 industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes
1566 established pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and

1567 5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in
1568 a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the
1569 dealer deals in, or the processor processes that has been tested and, following any re-sampling and retesting
1570 as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of
1571 tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that
1572 the processor produces.

1573 C. A processor that processes a hemp product intended for smoking or a hemp product that is an
1574 industrial hemp extract intended for human consumption shall make available the results of the testing

conducted in accordance with § 3.2-4122 to each retail establishment that offers for sale the processor's hemp products.

§ 3.2-4117.1. Hemp testing laboratory license.

A. The Commissioner shall establish a licensure program to allow a laboratory to test industrial hemp or hemp products in the Commonwealth.

B. Any laboratory seeking to test industrial hemp or hemp products in the Commonwealth shall apply to the Commissioner for a license on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and address of the laboratory.

2. The address of each location at which the laboratory intends to test industrial hemp or hemp products.

3. The name of the person who will oversee and be responsible for the testing and documentation that such person has earned from an institution of higher education accredited by a national or regional certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

4. A signed statement that the applicant has no direct or indirect financial interest in a grower, processor, or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp product. Additionally, no person with a direct or indirect financial interest in the laboratory shall have a direct or indirect financial interest in a grower, processor, or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp product.

5. Documentation that the laboratory is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

6. Any other information required by the Commissioner.

7. The payment of a nonrefundable application fee.

C. Each license issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a license renewal fee.

D. Notwithstanding subsection B, a marijuana testing facility, as defined in § 4.1-600, shall not be required to apply to the Commissioner for a license to test industrial hemp or hemp products in the Commonwealth.

§ 3.2-4117.2. Hemp testing laboratory license.

A. A laboratory shall obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing any industrial hemp or hemp product in the Commonwealth. However, a marijuana testing facility, as defined in § 4.1-600, shall not be required to obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to testing industrial hemp or hemp products in the Commonwealth.

B. A laboratory issued a license pursuant to subsection A of § 3.2-4117.1 shall:

1. Maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

2. Employ a person who will oversee and be responsible for testing hemp products and who has earned from an institution of higher education accredited by a national or regional certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience of (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

3. Allow the Commissioner or his designee to inspect each location at which the laboratory tests hemp products.

C. If the results of a test required by (i) § 3.2-4122, (ii) regulations adopted pursuant to subsection C of § 3.2-4114, or (iii) regulations adopted pursuant to § 3.2-5145.4 indicate that the tested hemp product exceeds the maximum level of allowable contamination for any contaminant for which testing is required, a hemp testing laboratory shall, within 30 days of completing the test, notify the Commissioner of the test results.

D. For each day any violation of this section occurs, the Commissioner may assess a penalty not to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or subsequent violation. All penalties collected by the Commissioner pursuant to this subsection shall be deposited in the state treasury.

§ 3.2-4122. Hemp products.

A. Any hemp product intended for smoking that is distributed, offered for sale, or sold in the Commonwealth shall be:

1. Tested in accordance with regulations adopted pursuant to subsection C of § 3.2-4114.

2. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

3. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

B. Any hemp product that is intended for smoking or that is or includes an industrial hemp extract intended for human consumption that is distributed, offered for sale, or sold in the Commonwealth shall be:

1. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

2. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

C. A processor shall destroy the batch of hemp product intended for smoking or consumption whose testing sample exceeds the maximum level of allowable contamination for each contaminant established in regulations adopted pursuant to subsection C of § 3.2-4114, unless remedial measures can bring the hemp product into compliance with such regulation.

D. For any violation of subsection A or B by a processor or by a retail establishment, the Commissioner may assess a penalty not to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or subsequent violation. For any violation of subsection C by a processor, the Commissioner may assess a penalty not to exceed (a) \$100 for a first violation, (b) \$200 for a second violation, and (c) \$500 for a third or subsequent violation. All penalties collected by the Commissioner pursuant to this subsection shall be deposited in the state treasury.

E. Notwithstanding the provisions of subsection A, any hemp product intended for smoking or consumption that is produced prior to the initial effective date of the regulations adopted pursuant to subsection C or D of § 3.2-4114 may be distributed, offered for sale, or sold. Any person who distributes, offers for sale, or sells a hemp product intended for smoking or consumption pursuant to this subsection shall provide to the Commissioner, upon request, documentation of the date on which the product was processed.

Article 6.

Edible Marijuana Products.

§ 3.2-5145.6. Definitions.

As used in this article, unless the context requires a different meaning:

"Edible marijuana product" means the same as that term is defined in § 4.1-600.

"Food" means any article that is intended for human consumption and introduction into commerce, whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. "Food" does not mean drug as defined in § 54.1-3401.

§ 3.2-5145.7. Edible marijuana products; approved food; adulterated food.

A. An edible marijuana product is a food and is subject to the requirements of this chapter and regulations adopted pursuant to this chapter.

B. An edible marijuana product that does not comply with the provisions of § 4.1-1403 or health and safety regulations adopted pursuant thereto shall be deemed to be adulterated.

§ 3.2-5145.8. Manufacturer of edible marijuana products.

A manufacturer of an edible marijuana product shall be an approved source if the manufacturer operates:

1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and
2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible marijuana products in the location in which such manufacturing occurs.

§ 3.2-5145.9. Regulations.

A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations adopted pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

TITLE 4.1.

ALCOHOLIC BEVERAGE AND CANNABIS CONTROL ~~ACT~~.

SUBTITLE I.

ALCOHOLIC BEVERAGE CONTROL ACT.

§ 4.1-100. (Effective until July 1, 2021) Definitions.

As used in this ~~title~~ subtitle unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcoholic Beverage Control Act" means Subtitle I (§ 4.1-100 et seq.).

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

1707 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such
1708 varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic
1709 beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine,
1710 or beer and capable of being consumed by a human being. Any liquid or solid containing more than one
1711 of the four varieties shall be considered as belonging to that variety which has the higher percentage of
1712 alcohol, however obtained, according to the order in which they are set forth in this definition; except that
1713 beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing
1714 alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived
1715 from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an
1716 alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content
1717 of more than six percent by volume, as long as no more than one and one-half percent of the volume of
1718 the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients
1719 containing alcohol.

1720 "Art instruction studio" means any commercial establishment that provides to its customers all
1721 required supplies and step-by-step instruction in creating a painting or other work of art during a studio
1722 instructional session.

1723 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in
1724 which works of art are sold or displayed.

1725 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~
1726 subtitle.

1727 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1728 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;
1729 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)
1730 offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight
1731 lodging is provided. For purposes of the licensing requirements of this ~~title~~ subtitle, "bed and breakfast
1732 establishment" includes any property offered to the public for short-term rental, as that term is defined in

1733 § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each
1734 person to whom overnight lodging is provided.

1735 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of
1736 barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent
1737 or more of alcohol by volume.

1738 "Bespoke clothier establishment" means a permanent retail establishment that offers, by
1739 appointment only, custom made apparel and that offers a membership program to customers. Such
1740 establishment shall be a permanent structure where measurements and fittings are performed on-site but
1741 apparel is produced offsite and delivered directly to the customer. Such establishment shall have facilities
1742 to properly secure any stock of alcoholic beverages.

1743 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

1744 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43
1745 ounces.

1746 "Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats
1747 for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to
1748 33 U.S.C. § 59ii.

1749 "Club" means any private nonprofit corporation or association which is the owner, lessee, or
1750 occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other
1751 like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also
1752 means the establishment so operated. A corporation or association shall not lose its status as a club because
1753 of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter
1754 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic
1755 beverages are served or consumed in the room where such charitable gaming is being conducted while
1756 such gaming is being conducted and that no alcoholic beverages are made available upon the premises to
1757 any person who is neither a member nor a bona fide guest of a member.

1758 Any such corporation or association which has been declared exempt from federal and state income
1759 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit
1760 corporation or association.

1761 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum
1762 of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain
1763 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a
1764 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial
1765 owners' association that is responsible for the management, maintenance, and operation of the common
1766 areas thereof.

1767 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding
1768 alcoholic beverages.

1769 "Contract winemaking facility" means the premises of a licensed winery or farm winery that
1770 obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and
1771 crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an
1772 agreement with the farm winery licensee. For all purposes of this ~~title~~ subtitle, wine produced by a contract
1773 winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm
1774 winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine.
1775 The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of
1776 payment have not been fulfilled in accordance with the contract. The contract winemaking facility may
1777 charge the farm winery for its services.

1778 "Convenience grocery store" means an establishment which (i) has an enclosed room in a
1779 permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible
1780 items intended for human consumption consisting of a variety of such items of the types normally sold in
1781 grocery stores.

1782 "Coworking establishment" means a facility that has at least 100 members, a majority of whom
1783 are 21 years of age or older, to whom it offers shared office space and related amenities, including desks,
1784 conference rooms, Internet access, printers, copiers, telephones, and fax machines.

1785 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a
1786 building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the
1787 Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service
1788 kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and
1789 recreational and educational activities related to farming, livestock, and other rural activities.

1790 "Day spa" means any commercial establishment that offers to the public both massage therapy,
1791 performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services
1792 performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

1793 "Designated area" means a room or area approved by the Board for on-premises licensees.

1794 "Dining area" means a public room or area in which meals are regularly served.

1795 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
1796 manufactured, sold, or used.

1797 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land
1798 zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for
1799 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
1800 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
1801 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
1802 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
1803 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
1804 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
1805 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
1806 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
1807 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate
1808 and apart from all other facilities of the institution, and (d) such farm winery is operated in strict
1809 conformance with the requirements of this clause (ii) and Board regulations. As used in this definition,
1810 the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the
1811 purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term

1812 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
1813 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land
1814 zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise
1815 permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does
1816 not include land zoned "residential conservation." Except for the limitation on land zoned "residential
1817 conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local
1818 zoning authority.

1819 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs,
1820 specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral
1821 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
1822 where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine
1823 or beer. Such shop may be located (i) on the premises or grounds of a government registered national,
1824 state or local historic building or site or (ii) within the premises of a museum. The Board shall consider
1825 the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered
1826 a gift shop.

1827 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer
1828 may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
1829 persons facilities for manufacturing, fermenting and bottling such wine or beer.

1830 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
1831 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
1832 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
1833 furnished to persons.

1834 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

1835 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3)
1836 of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of
1837 showing motion pictures to the public.

1838 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
1839 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
1840 four or more bedrooms. It shall also mean the person who operates such hotel.

1841 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
1842 pursuant to this ~~title~~ subtitle.

1843 "Internet beer retailer" means a person who owns or operates an establishment with adequate
1844 inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders
1845 are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

1846 "Internet wine retailer" means a person who owns or operates an establishment with adequate
1847 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders
1848 are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

1849 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
1850 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

1851 "Licensed" means the holding of a valid license granted by the Authority.

1852 "Licensee" means any person to whom a license has been granted by the Authority.

1853 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an
1854 alcohol content of 25 percent by volume.

1855 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of
1856 alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of
1857 spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water,
1858 fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
1859 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
1860 this ~~title~~ subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or
1861 a distiller located outside the Commonwealth.

1862 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-
1863 premises consumption, ingredients for the preparation of meals and entrees in professional kitchen
1864 facilities located at the establishment.

1865 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
1866 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
1867 specializing in full course meals with a single substantial entree.

1868 "Member of a bespoke clothier establishment" means a person who maintains a membership in the
1869 bespoke clothier establishment for a period of not less than one month by the payment of monthly,
1870 quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment. The
1871 minimum membership fee shall be not less than \$25 for any term of membership.

1872 "Member of a club" means (i) a person who maintains his membership in the club by the payment
1873 of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)
1874 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
1875 descendants of a bona fide member, whether alive or deceased, of a national or international organization
1876 to which an individual lodge holding a club license is an authorized member in the same locality. It shall
1877 also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of
1878 resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

1879 "Member of a coworking establishment" means a person who maintains a membership in the
1880 coworking establishment for a period of not less than one month by the payment of monthly, quarterly, or
1881 annual dues in the manner established by the rules of the coworking establishment. "Member of a
1882 coworking establishment" does not include an employee or any person with an ownership interest in the
1883 coworking establishment.

1884 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of
1885 spirits.

1886 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring
1887 materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or
1888 preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or
1889 not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed
1890 by a Virginia corporation.

1891 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849
1892 and which is the county seat of Smyth County.

1893 "Place or premises" means the real estate, together with any buildings or other improvements
1894 thereon, designated in the application for a license as the place at which the manufacture, bottling,
1895 distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building
1896 or other improvement actually and exclusively used as a private residence.

1897 "Principal stockholder" means any person who individually or in concert with his spouse and
1898 immediate family members beneficially owns or controls, directly or indirectly, five percent or more of
1899 the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse
1900 and immediate family members has the power to vote or cause the vote of five percent or more of any
1901 such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the
1902 Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial
1903 markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

1904 "Public place" means any place, building, or conveyance to which the public has, or is permitted
1905 to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,
1906 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
1907 highway, street, or lane.

1908 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for
1909 private meetings or private parties limited in attendance to members and guests of a particular group,
1910 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or
1911 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
1912 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
1913 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
1914 use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner
1915 or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which
1916 are not licensed by the Board and on which alcoholic beverages are not sold.

1917 "Residence" means any building or part of a building or structure where a person resides, but does
1918 not include any part of a building which is not actually and exclusively used as a private residence, nor
1919 any part of a hotel or club other than a private guest room thereof.

1920 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational
1921 facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable
1922 corporation with voluntary membership which, as its primary function, makes available golf, ski, and
1923 other recreational facilities both to its members and the general public; or (iii) operated by a corporation
1924 that operates as a management company which, as its primary function, makes available (a) vacation
1925 accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to
1926 members of the managed entities and the general public. The hotel or corporation shall have or manage a
1927 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not
1928 contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is
1929 not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the
1930 same locality. The Authority may consider the purpose, characteristics, and operation of the applicant
1931 establishment in determining whether it shall be considered as a resort complex. All other pertinent
1932 qualifications established by the Board for a hotel operation shall be observed by such licensee.

1933 "Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant
1934 license, any establishment provided with special space and accommodation, where, in consideration of
1935 payment, meals or other foods prepared on the premises are regularly sold.

1936 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant
1937 license, an established place of business (i) where meals with substantial entrees are regularly sold and
1938 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals
1939 for consumption at tables in dining areas on the premises, and includes establishments specializing in full
1940 course meals with a single substantial entree.

1941 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for
1942 sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
1943 beverages.

1944 "Sangria" means a drink consisting of red or white wine mixed with some combination of
1945 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
1946 similar spirits.

1947 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom
1948 the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

1949 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
1950 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

1951 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable
1952 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin,
1953 or any one or more of the last four named ingredients, but shall not include any such liquors completely
1954 denatured in accordance with formulas approved by the United States government.

1955 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural
1956 sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either
1957 with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no
1958 product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in
1959 the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed
1960 an alcohol content of 21 percent by volume.

1961 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume,
1962 and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting
1963 of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
1964 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
1965 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
1966 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

1967 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees
1968 for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
1969 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
1970 such retail licensee.

1971 **§ 4.1-100. (Effective July 1, 2021) Definitions.**

1972 As used in this ~~title~~ subtitle unless the context requires a different meaning:

1973 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any
1974 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl
1975 alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with
1976 formulas approved by the government of the United States.

1977 "Alcoholic Beverage Control Act" means Subtitle I (§ 4.1-100 et seq.).

1978 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
1979 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
1980 by inhalation.

1981 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such
1982 varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic
1983 beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine,
1984 or beer and capable of being consumed by a human being. Any liquid or solid containing more than one
1985 of the four varieties shall be considered as belonging to that variety which has the higher percentage of
1986 alcohol, however obtained, according to the order in which they are set forth in this definition; except that
1987 beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing
1988 alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived
1989 from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an
1990 alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content
1991 of more than six percent by volume, as long as no more than one and one-half percent of the volume of
1992 the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients
1993 containing alcohol.

1994 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in
1995 which works of art are sold or displayed.

1996 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~
1997 subtitle.

1998 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1999 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;
2000 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)
2001 offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight
2002 lodging is provided. For purposes of the licensing requirements of this ~~title~~ subtitle, "bed and breakfast
2003 establishment" includes any property offered to the public for short-term rental, as that term is defined in
2004 § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each
2005 person to whom overnight lodging is provided.

2006 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of
2007 barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent
2008 or more of alcohol by volume.

2009 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

2010 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43
2011 ounces.

2012 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20
2013 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the
2014 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24
2015 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with
2016 charging stations at every seat for cellular phones or other portable devices, and (vi) during the
2017 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth
2018 in this ~~title~~ subtitle or Board regulation.

2019 "Club" means any private nonprofit corporation or association which is the owner, lessee, or
2020 occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other
2021 like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also
2022 means the establishment so operated. A corporation or association shall not lose its status as a club because
2023 of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter
2024 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic

2025 beverages are served or consumed in the room where such charitable gaming is being conducted while
2026 such gaming is being conducted and that no alcoholic beverages are made available upon the premises to
2027 any person who is neither a member nor a bona fide guest of a member.

2028 Any such corporation or association which has been declared exempt from federal and state income
2029 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit
2030 corporation or association.

2031 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum
2032 of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain
2033 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a
2034 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial
2035 owners' association that is responsible for the management, maintenance, and operation of the common
2036 areas thereof.

2037 "Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding
2038 alcoholic beverages.

2039 "Contract winemaking facility" means the premises of a licensed winery or farm winery that
2040 obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and
2041 crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an
2042 agreement with the farm winery licensee. For all purposes of this ~~title~~ subtitle, wine produced by a contract
2043 winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm
2044 winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine.
2045 The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of
2046 payment have not been fulfilled in accordance with the contract. The contract winemaking facility may
2047 charge the farm winery for its services.

2048 "Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent
2049 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items
2050 intended for human consumption consisting of a variety of such items of the types normally sold in grocery
2051 stores.

2052 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a
2053 building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the
2054 Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service
2055 kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and
2056 recreational and educational activities related to farming, livestock, and other rural activities.

2057 "Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring
2058 little preparation, such as cheeses, salads, cooked meats, and related condiments.

2059 "Designated area" means a room or area approved by the Board for on-premises licensees.

2060 "Dining area" means a public room or area in which meals are regularly served.

2061 "Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist
2062 pursuant to a prescription and other medicines and items for home and general use.

2063 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
2064 manufactured, sold, or used.

2065 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land
2066 zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for
2067 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
2068 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
2069 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
2070 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
2071 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
2072 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
2073 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
2074 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
2075 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate
2076 and apart from all other facilities of the institution, and (d) such farm winery is operated in strict
2077 conformance with the requirements of this clause (ii) and Board regulations. As used in this definition,
2078 the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the

2079 purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term
2080 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
2081 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land
2082 zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise
2083 permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does
2084 not include land zoned "residential conservation." Except for the limitation on land zoned "residential
2085 conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local
2086 zoning authority.

2087 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs,
2088 specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral
2089 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
2090 where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine
2091 or beer. Such shop may be located (i) on the premises or grounds of a government registered national,
2092 state or local historic building or site or (ii) within the premises of a museum. The Board shall consider
2093 the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered
2094 a gift shop.

2095 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer
2096 may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
2097 persons facilities for manufacturing, fermenting and bottling such wine or beer.

2098 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial
2099 marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for
2100 consumption on the premises, and (iii) offers to the public events for the purpose of featuring and
2101 educating the consuming public about local oysters and other seafood products.

2102 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
2103 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
2104 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
2105 furnished to persons.

2106 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

2107 "Grocery store" means an establishment that sells food and other items intended for human
2108 consumption, including a variety of ingredients commonly used in the preparation of meals.

2109 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3)
2110 of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of
2111 showing motion pictures to the public.

2112 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
2113 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
2114 four or more bedrooms. It shall also mean the person who operates such hotel.

2115 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
2116 pursuant to this ~~title~~ subtitle.

2117 "Internet wine and beer retailer" means a person who owns or operates an establishment with
2118 adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or
2119 telephone orders are taken and shipped directly to consumers and which establishment is not a retail store
2120 open to the public.

2121 ~~"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to~~
2122 ~~observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.~~

2123 "Licensed" means the holding of a valid license granted by the Authority.

2124 "Licensee" means any person to whom a license has been granted by the Authority.

2125 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an
2126 alcohol content of 25 percent by volume.

2127 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of
2128 alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of
2129 spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water,
2130 fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
2131 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of

2132 this ~~title~~ subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or
2133 a distiller located outside the Commonwealth.

2134 "Marina store" means an establishment that is located on the same premises as a marina, is operated
2135 by the owner of such marina, and sells food and nautical and fishing supplies.

2136 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
2137 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
2138 specializing in full course meals with a single substantial entree.

2139 "Member of a club" means (i) a person who maintains his membership in the club by the payment
2140 of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)
2141 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
2142 descendants of a bona fide member, whether alive or deceased, of a national or international organization
2143 to which an individual lodge holding a club license is an authorized member in the same locality. It shall
2144 also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of
2145 resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

2146 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of
2147 spirits.

2148 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring
2149 materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or
2150 preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or
2151 not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed
2152 by a Virginia corporation.

2153 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849
2154 and which is the county seat of Smyth County.

2155 "Place or premises" means the real estate, together with any buildings or other improvements
2156 thereon, designated in the application for a license as the place at which the manufacture, bottling,
2157 distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building
2158 or other improvement actually and exclusively used as a private residence.

2159 "Principal stockholder" means any person who individually or in concert with his spouse and
2160 immediate family members beneficially owns or controls, directly or indirectly, five percent or more of
2161 the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse
2162 and immediate family members has the power to vote or cause the vote of five percent or more of any
2163 such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the
2164 Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial
2165 markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

2166 "Public place" means any place, building, or conveyance to which the public has, or is permitted
2167 to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,
2168 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
2169 highway, street, or lane.

2170 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for
2171 private meetings or private parties limited in attendance to members and guests of a particular group,
2172 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or
2173 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
2174 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
2175 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
2176 use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner
2177 or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which
2178 are not licensed by the Board and on which alcoholic beverages are not sold.

2179 "Residence" means any building or part of a building or structure where a person resides, but does
2180 not include any part of a building that is not actually and exclusively used as a private residence, nor any
2181 part of a hotel or club other than a private guest room thereof.

2182 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational
2183 facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable
2184 corporation with voluntary membership which, as its primary function, makes available golf, ski, and
2185 other recreational facilities both to its members and to the general public; or (iii) operated by a corporation

2186 that operates as a management company which, as its primary function, makes available (a) vacation
2187 accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to
2188 members of the managed entities and the general public. The hotel or corporation shall have or manage a
2189 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not
2190 contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is
2191 not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the
2192 same locality. The Authority may consider the purpose, characteristics, and operation of the applicant
2193 establishment in determining whether it shall be considered as a resort complex. All other pertinent
2194 qualifications established by the Board for a hotel operation shall be observed by such licensee.

2195 "Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license,
2196 any establishment provided with special space and accommodation, where, in consideration of payment,
2197 meals or other foods prepared on the premises are regularly sold.

2198 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant
2199 license, an established place of business (i) where meals with substantial entrees are regularly sold and
2200 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals
2201 for consumption at tables in dining areas on the premises, and includes establishments specializing in full
2202 course meals with a single substantial entree.

2203 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for
2204 sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
2205 beverages.

2206 "Sangria" means a drink consisting of red or white wine mixed with some combination of
2207 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
2208 similar spirits.

2209 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom
2210 the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

2211 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
2212 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

2213 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable
2214 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin,
2215 or any one or more of the last four named ingredients, but shall not include any such liquors completely
2216 denatured in accordance with formulas approved by the United States government.

2217 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural
2218 sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either
2219 with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no
2220 product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in
2221 the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed
2222 an alcohol content of 21 percent by volume.

2223 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume,
2224 and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting
2225 of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
2226 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
2227 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
2228 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

2229 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees
2230 for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
2231 required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by
2232 such retail licensee.

2233 **§ 4.1-101.01. Board of Directors; membership; terms; compensation.**

2234 A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at
2235 large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in
2236 each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth
2237 for a period of at least three years next preceding his appointment, and his continued residency shall be a
2238 condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related
2239 field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the

2240 direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a
2241 background check in accordance with § 4.1-101.03.

2242 B. After the initial staggering of terms, members shall be appointed for a term of five years. All
2243 members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for
2244 the unexpired term. No member appointed by the Governor shall be eligible to serve more than two
2245 consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive
2246 terms. Members of the Board may be removed from office by the Governor for cause, including the
2247 improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty,
2248 absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in
2249 the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

2250 C. The Governor shall appoint the chairman and vice-chairman of the Board from among the
2251 membership of the Board. The Board may elect other subordinate officers, who need not be members of
2252 the Board. The Board may also form committees and advisory councils, which may include
2253 representatives who are not members of the Board, to undertake more extensive study and discussion of
2254 the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the
2255 Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the
2256 rights and perform all duties of the Authority.

2257 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings
2258 may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon
2259 the written request of a majority of the Board members.

2260 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of
2261 expenses for the performance of their official duties as set forth in the general appropriation act for
2262 members of the House of Delegates when the General Assembly is not in session, except that the chairman
2263 of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the
2264 performance of his official duties as set forth in the general appropriation act for a member of the Senate
2265 of Virginia when the General Assembly is not in session.

2266 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.)
2267 shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees
2268 of the Authority.

2269 **§ 4.1-101.02. Appointment, salary, and powers of Chief Executive Officer; appointment of**
2270 **confidential assistant to the Chief Executive Officer.**

2271 A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed
2272 by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief
2273 Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree
2274 in business or a related field of study; and shall possess a minimum of seven years of demonstrated
2275 experience or expertise in the direct management, supervision, or control of a business or legal affairs.
2276 The Chief Executive Officer shall receive such compensation as determined by the Board and approved
2277 by the Governor, including any performance bonuses or incentives as the Board deems advisable. The
2278 Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The
2279 Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or
2280 imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved
2281 by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause,
2282 including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence,
2283 misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or
2284 targets as set by the Board and approved by the Governor, failure to carry out the policies of the
2285 Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a
2286 lawful directive of the Governor.

2287 B. The Chief Executive Officer shall devote his full time to the performance of his official duties
2288 and shall not be engaged in any other profession or occupation.

2289 C. The Chief Executive Officer shall supervise and administer the operations of the Authority in
2290 accordance with this ~~title~~ subtitle.

2291 D. The Chief Executive Officer shall:

- 2292 1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the
2293 Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;
2294 2. Exercise and perform such powers and duties as may be delegated to him by the Board or as
2295 may be conferred or imposed upon him by law;
2296 3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer
2297 as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer,
2298 subject to the Board's approval; and
2299 4. Make recommendations to the Board for legislative and regulatory changes.

2300 E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of
2301 the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the
2302 local or state level or cause such a contribution to be made on his behalf.

2303 F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also
2304 appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-
2305 will basis.

2306 **§ 4.1-101.07. Forms of accounts and records; audit; annual report.**

2307 A. The accounts and records of the Authority showing the receipt and disbursement of funds from
2308 whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of
2309 Public Accounts or his legally authorized representatives shall annually examine the accounts and books
2310 of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on
2311 or before December 15 of each year. Such report shall contain the audited annual financial statements of
2312 the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan
2313 detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs,
2314 including lease payments, major acquisitions of services and tangible or intangible property, any material
2315 changes to the policies and procedures issued by the Authority related to procurement or personnel, and
2316 any proposed marketing activities.

2317 B. Notwithstanding any other provision of law, in exercising any power conferred under this ~~title~~
2318 subtitle, the Authority may implement and maintain independent payroll and nonpayroll disbursement

2319 systems. These systems and related procedures shall be subject to review and approval by the State
2320 Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail
2321 on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts'
2322 financial management system or its successor system. Such reports shall be made in accordance with
2323 policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement
2324 system shall include all disbursements and expenditures, other than payroll. Such disbursements and
2325 expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments,
2326 petty cash, and interagency payments.

2327 **§ 4.1-101.09. Exemptions from taxes or assessments.**

2328 The exercise of the powers granted by this ~~title~~ subtitle shall be in all respects for the benefit of
2329 the people of the Commonwealth, for the increase of their commerce and prosperity, and for the
2330 improvement of their living conditions, and as the undertaking of activities in the furtherance of the
2331 purposes of the Authority constitutes the performance of essential governmental functions, the Authority
2332 shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority
2333 under the provisions of this ~~title~~ subtitle or upon the income therefrom, including sales and use taxes on
2334 the tangible personal property used in the operations of the Authority. The exemption granted in this
2335 section shall not be construed to extend to persons conducting on the premises of any property of the
2336 Authority businesses for which local or state taxes would otherwise be required.

2337 **§ 4.1-101.010. Exemption of Authority from personnel and procurement procedures;**
2338 **information systems; etc.**

2339 A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public
2340 Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power
2341 conferred under this ~~title~~ subtitle. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2
2342 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any
2343 power conferred under this ~~title~~ subtitle.

2344 B. To effect its implementation, the Authority's procurement of goods, services, insurance, and
2345 construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.

C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.

§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation.

A. Whenever in this ~~title~~ subtitle the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this ~~title~~ subtitle the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§ 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address,

2373 telephone number, or other contact information provided to the Board by the licensee, provided that the
2374 Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or
2375 a certificate of service prepared by the Board confirming the electronic delivery.

2376 C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension
2377 or revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be
2378 sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board
2379 to suspend or revoke a license or permit or impose a civil penalty be sent by the Board by email, text
2380 message, or other electronic means.

2381 **§ 4.1-103. (Effective until July 1, 2021) General powers of Board.**

2382 The Board shall have the power to:

- 2383 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
- 2384 2. Adopt, use, and alter at will a common seal;
- 2385 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of,
2386 the sale of products of, or services rendered by the Authority at rates to be determined by the Authority
2387 for the purpose of providing for the payment of the expenses of the Authority;
- 2388 4. Make and enter into all contracts and agreements necessary or incidental to the performance of
2389 its duties, the furtherance of its purposes, and the execution of its powers under this ~~title~~ subtitle, including
2390 agreements with any person or federal agency;
- 2391 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
2392 experts, investment bankers, superintendents, managers, and such other employees and special agents as
2393 may be necessary and fix their compensation to be payable from funds made available to the Authority.
2394 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
2395 (§ 2.2-500 et seq.) of Title 2.2;
- 2396 6. Receive and accept from any federal or private agency, foundation, corporation, association, or
2397 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
2398 and accept from the Commonwealth or any state and any municipality, county, or other political
2399 subdivision thereof or from any other source aid or contributions of either money, property, or other things

2400 of value, to be held, used, and applied only for the purposes for which such grants and contributions may
2401 be made. All federal moneys accepted under this section shall be accepted and expended by the Authority
2402 upon such terms and conditions as are prescribed by the United States and as are consistent with state law,
2403 and all state moneys accepted under this section shall be expended by the Authority upon such terms and
2404 conditions as are prescribed by the Commonwealth;

2405 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
2406 business shall be transacted and the manner in which the powers of the Authority shall be exercised and
2407 its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority
2408 to any officer or employee of the Authority. The Board shall remain responsible for the performance of
2409 any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be
2410 accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate,
2411 the guidelines shall require that the Board receive summaries of actions taken. Such delegation or
2412 assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties
2413 and tasks;

2414 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the
2415 Authority's purposes or necessary or convenient to exercise its powers;

2416 9. Develop policies and procedures generally applicable to the procurement of goods, services,
2417 and construction, based upon competitive principles;

2418 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43
2419 of Title 2.2;

2420 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm
2421 wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its
2422 possession for sale;

2423 12. Buy and sell any mixers;

2424 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within
2425 international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares
2426 and glass), and 25 (clothing);

- 2427 14. Control the possession, sale, transportation and delivery of alcoholic beverages;
- 2428 15. Determine, subject to § 4.1-121, the localities within which government stores shall be
2429 established or operated and the location of such stores;
- 2430 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
2431 beverages to and from such warehouses;
- 2432 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or
2433 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes
2434 of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
2435 therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease
2436 as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein,
2437 at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and
2438 on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property,
2439 real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the
2440 Authority on such terms and conditions as may be determined by the Board; and occupy and improve any
2441 land or building required for the purposes of this ~~title~~ subtitle;
- 2442 18. Purchase or otherwise acquire title to any land or building required for the purposes of this ~~title~~
2443 subtitle and sell and convey the same by proper deed, with the consent of the Governor;
- 2444 19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be
2445 considered necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying,
2446 blending and processing plants. The Board may purchase, build, lease, and operate distilleries and
2447 manufacture alcoholic beverages;
- 2448 20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages
2449 to be kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be
2450 placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered
2451 or crystalline alcohol;

2452 21. Appoint every agent and employee required for its operations; require any or all of them to
2453 give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the
2454 services of experts and professionals;

2455 22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the
2456 production of records, memoranda, papers and other documents before the Board or any agent of the
2457 Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member
2458 or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony
2459 thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved.
2460 The Board may enter into consent agreements and may request and accept from any applicant or licensee
2461 a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary
2462 action. Any such consent agreement shall include findings of fact and may include an admission or a
2463 finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall
2464 not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et
2465 seq.), but may be considered by the Board in future disciplinary proceedings;

2466 23. Make a reasonable charge for preparing and furnishing statistical information and compilations
2467 to persons other than (i) officials, including court and police officials, of the Commonwealth and of its
2468 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
2469 interest in obtaining the information requested if such information is not to be used for commercial or
2470 trade purposes;

2471 24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
2472 and § 4.1-111;

2473 25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation,
2474 and sale of alcoholic beverages;

2475 26. Assess and collect civil penalties and civil charges for violations of this ~~title~~ subtitle and Board
2476 regulations;

2477 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

2478 28. Establish minimum food sale requirements for all retail licensees;

2479 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief
2480 Executive Officer as the Board deems appropriate;

2481 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-
2482 enforcement activities undertaken to enforce the provisions of this ~~title~~ subtitle; and

2483 31. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ subtitle.

2484 **§ 4.1-103. (Effective July 1, 2021) General powers of Board.**

2485 The Board shall have the power to:

2486 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

2487 2. Adopt, use, and alter at will a common seal;

2488 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of,
2489 the sale of products of, or services rendered by the Authority at rates to be determined by the Authority
2490 for the purpose of providing for the payment of the expenses of the Authority;

2491 4. Make and enter into all contracts and agreements necessary or incidental to the performance of
2492 its duties, the furtherance of its purposes, and the execution of its powers under this ~~title~~ subtitle, including
2493 agreements with any person or federal agency;

2494 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
2495 experts, investment bankers, superintendents, managers, and such other employees and special agents as
2496 may be necessary and fix their compensation to be payable from funds made available to the Authority.
2497 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
2498 (§ 2.2-500 et seq.) of Title 2.2;

2499 6. Receive and accept from any federal or private agency, foundation, corporation, association, or
2500 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
2501 and accept from the Commonwealth or any state and any municipality, county, or other political
2502 subdivision thereof or from any other source aid or contributions of either money, property, or other things
2503 of value, to be held, used, and applied only for the purposes for which such grants and contributions may
2504 be made. All federal moneys accepted under this section shall be accepted and expended by the Authority
2505 upon such terms and conditions as are prescribed by the United States and as are consistent with state law,

2506 and all state moneys accepted under this section shall be expended by the Authority upon such terms and
2507 conditions as are prescribed by the Commonwealth;

2508 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
2509 business shall be transacted and the manner in which the powers of the Authority shall be exercised and
2510 its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority
2511 to any officer or employee of the Authority. The Board shall remain responsible for the performance of
2512 any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be
2513 accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate,
2514 the guidelines shall require that the Board receive summaries of actions taken. Such delegation or
2515 assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties
2516 and tasks;

2517 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the
2518 Authority's purposes or necessary or convenient to exercise its powers;

2519 9. Develop policies and procedures generally applicable to the procurement of goods, services,
2520 and construction, based upon competitive principles;

2521 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43
2522 of Title 2.2;

2523 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm
2524 wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its
2525 possession for sale;

2526 12. Buy and sell any mixers;

2527 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within
2528 international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares
2529 and glass), and 25 (clothing);

2530 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;

2531 15. Determine, subject to § 4.1-121, the localities within which government stores shall be
2532 established or operated and the location of such stores;

2533 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
2534 beverages to and from such warehouses;

2535 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or
2536 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes
2537 of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
2538 therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease
2539 as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein,
2540 at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and
2541 on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property,
2542 real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the
2543 Authority on such terms and conditions as may be determined by the Board; and occupy and improve any
2544 land or building required for the purposes of this ~~title~~ subtitle;

2545 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be
2546 considered necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including rectifying,
2547 blending, and processing plants. The Board may purchase, build, lease, and operate distilleries and
2548 manufacture alcoholic beverages;

2549 19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages
2550 to be kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be
2551 placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered
2552 or crystalline alcohol;

2553 20. Appoint every agent and employee required for its operations; require any or all of them to
2554 give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the
2555 services of experts and professionals;

2556 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the
2557 production of records, memoranda, papers and other documents before the Board or any agent of the
2558 Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member
2559 or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony

2560 thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved.
2561 The Board may enter into consent agreements and may request and accept from any applicant or licensee
2562 a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary
2563 action. Any such consent agreement shall include findings of fact and may include an admission or a
2564 finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall
2565 not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et
2566 seq.), but may be considered by the Board in future disciplinary proceedings;

2567 22. Make a reasonable charge for preparing and furnishing statistical information and compilations
2568 to persons other than (i) officials, including court and police officials, of the Commonwealth and of its
2569 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
2570 interest in obtaining the information requested if such information is not to be used for commercial or
2571 trade purposes;

2572 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
2573 and § 4.1-111;

2574 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation,
2575 and sale of alcoholic beverages;

2576 25. Assess and collect civil penalties and civil charges for violations of this ~~title~~ subtitle and Board
2577 regulations;

2578 26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

2579 27. Establish minimum food sale requirements for all retail licensees;

2580 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief
2581 Executive Officer as the Board deems appropriate;

2582 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-
2583 enforcement activities undertaken to enforce the provisions of this ~~title~~ subtitle;

2584 30. Establish and collect fees for all permits set forth in this ~~title~~ subtitle, including fees associated
2585 with applications for such permits;

31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and operated by a casino gaming establishment pay for any cost incurred by the Board to enforce such license in excess of the applicable state license fee; and

32. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ subtitle.

§ 4.1-104. Purchases by the Board.

The purchasing of alcoholic beverages and mixers, products used in connection with distilled spirits intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 intended for resale, the making of leases, and the purchasing of real estate by the Board under the provisions of this ~~title~~ subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

§ 4.1-105. Police power of members, agents and employees of Board.

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this ~~title~~ subtitle and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

§ 4.1-106. Liability of Board members; suits by and against Board.

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this ~~title~~ subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

§ 4.1-107. Counsel for members, agents and employees of Board.

If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or

2613 employee. The compensation for special counsel employed pursuant to this section, shall, subject to the
2614 approval of the Attorney General, be paid in the same manner as other expenses incident to the
2615 administration of this ~~title~~ subtitle are paid.

2616 **§ 4.1-111. (Effective until July 1, 2021) Regulations of Board.**

2617 A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ subtitle or
2618 the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~
2619 subtitle and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic
2620 beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated,
2621 amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall
2622 have the effect of law.

2623 B. The Board shall promulgate regulations that:

2624 1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or
2625 consumed on any licensed premises, including a provision that mixed beverages may be sold only at such
2626 times as wine and beer may be sold.

2627 2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be
2628 served by such licensee.

2629 3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers,
2630 brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established
2631 trade customs, quantity and value of the articles or services involved; prevent undue competitive
2632 domination of any person by any other person engaged in the manufacture, distribution and sale at retail
2633 or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of
2634 arm's length business transactions.

2635 4. Establish requirements for the form, content, and retention of all records and accounts, including
2636 the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in
2637 kegs, by all licensees.

2638 5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer
2639 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the
2640 address on record with the Board by certified mail, return receipt requested, and by regular mail.

2641 6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage
2642 spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with
2643 the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the
2644 manufacturers' seals, marks, or stamps affixed to the bottles are intact.

2645 7. Prescribe the terms and conditions under which credit or debit cards may be accepted from
2646 licensees for purchases at government stores, including provision for the collection, where appropriate, of
2647 related fees, penalties, and service charges.

2648 8. Require that banquet licensees in charge of public events as defined by Board regulations report
2649 to the Board the income and expenses associated with the public event on a form prescribed by the Board
2650 when the banquet licensee engages another person to organize, conduct or operate the event on behalf of
2651 the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages
2652 are being sold.

2653 9. Provide alternative methods for licensees to maintain and store business records that are subject
2654 to Board inspection, including methods for Board-approved electronic and off-site storage.

2655 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing
2656 one-half of one percent or more of alcohol by volume in the same location where wine and beer are
2657 available for sale within the licensed premises.

2658 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store,
2659 and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20
2660 liters.

2661 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant
2662 to subsection C of § 4.1-232.

2663 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic
2664 beverages, not inconsistent with the provisions of this ~~title~~ subtitle, so that such advertising does not

2665 encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic
2666 beverages may not be lawfully sold. Such regulations shall:

2667 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with
2668 (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale
2669 licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of
2670 wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the
2671 general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and
2672 retail licensees as set forth in Board regulation; and

2673 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ subtitle and
2674 (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated
2675 under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real
2676 estate as defined in § 55.1-1100, but only in accordance with this ~~title~~ subtitle.

2677 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer
2678 pursuant to an agreement with a brand owner not under common control with the manufacturing brewery
2679 and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the
2680 brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement
2681 be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the
2682 parties.

2683 15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations
2684 shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy
2685 hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees
2686 from using creative marketing techniques in such advertisements, provided that such techniques do not
2687 tend to induce overconsumption or consumption by minors.

2688 16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one
2689 bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals
2690 to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period
2691 and subject to any Board limitations on the frequency of such gifts.

2692 17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of
2693 glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved
2694 by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

2695 18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass,
2696 ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the
2697 Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine
2698 growlers may be used only by persons licensed to sell wine for both on-premises and off-premises
2699 consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with
2700 (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces,
2701 and (iv) the name and address of the retailer.

2702 19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-
2703 premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in
2704 sealed containers made of metal or other materials approved by the Board with a maximum capacity of
2705 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in
2706 the container following an order from the consumer.

2707 20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic
2708 beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations
2709 established by the Board.

2710 21. Establish and make available to all licensees and permittees for which on-premises
2711 consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve
2712 as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar
2713 bystander training module, which shall include (i) information that enables licensees, permittees, and their
2714 employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent
2715 such situations from culminating in sexual assault.

2716 22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises,
2717 available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such
2718 food shall be available in all areas of the licensed premises in which spirits are sold or served.

2719 23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed
2720 beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or
2721 other documents necessary to verify the licensee's compliance with applicable minimum food sale
2722 requirements within 30 days of the date such records or documents are due.

2723 C. The Board may promulgate regulations that:

2724 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to
2725 be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit
2726 status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the
2727 purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-
2728 profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2729 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the
2730 course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-
2731 325.2.

2732 3. Provide incentives to licensees with a proven history of compliance with state and federal laws
2733 and regulations to encourage licensees to conduct their business and related activities in a manner that is
2734 beneficial to the Commonwealth.

2735 D. Board regulations shall be uniform in their application, except those relating to hours of sale
2736 for licensees.

2737 E. Courts shall take judicial notice of Board regulations.

2738 F. The Board's power to regulate shall be broadly construed.

2739 **§ 4.1-111. (Effective July 1, 2021) Regulations of Board.**

2740 A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ subtitle or
2741 the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~
2742 subtitle and to prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic
2743 beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated,
2744 amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall
2745 have the effect of law.

2746 B. The Board shall promulgate regulations that:

2747 1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or
2748 consumed on any licensed premises, including a provision that mixed beverages may be sold only at such
2749 times as wine and beer may be sold.

2750 2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be
2751 served by such licensee.

2752 3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers,
2753 brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established
2754 trade customs, quantity and value of the articles or services involved; prevent undue competitive
2755 domination of any person by any other person engaged in the manufacture, distribution and sale at retail
2756 or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of
2757 arm's length business transactions.

2758 4. Establish requirements for the form, content, and retention of all records and accounts, including
2759 the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in
2760 kegs, by all licensees.

2761 5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer
2762 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the
2763 address on record with the Board by certified mail, return receipt requested, and by regular mail.

2764 6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage
2765 spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with
2766 the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the
2767 manufacturers' seals, marks, or stamps affixed to the bottles are intact.

2768 7. Prescribe the terms and conditions under which credit or debit cards may be accepted from
2769 licensees for purchases at government stores, including provision for the collection, where appropriate, of
2770 related fees, penalties, and service charges.

2771 8. Require that banquet licensees in charge of public events as defined by Board regulations report
2772 to the Board the income and expenses associated with the public event on a form prescribed by the Board

2773 when the banquet licensee engages another person to organize, conduct, or operate the event on behalf of
2774 the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages
2775 are being sold.

2776 9. Provide alternative methods for licensees to maintain and store business records that are subject
2777 to Board inspection, including methods for Board-approved electronic and off-site storage.

2778 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing
2779 one-half of one percent or more of alcohol by volume in the same location where wine and beer are
2780 available for sale within the licensed premises.

2781 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store,
2782 and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20
2783 liters.

2784 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant
2785 to subsection C of § 4.1-232.

2786 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic
2787 beverages, not inconsistent with the provisions of this ~~title~~ subtitle, so that such advertising does not
2788 encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic
2789 beverages may not be lawfully sold. Such regulations shall:

2790 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with
2791 (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale
2792 licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of
2793 wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the
2794 general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and
2795 retail licensees as set forth in Board regulation; and

2796 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ subtitle and
2797 (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated
2798 under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real
2799 estate as defined in § 55.1-1100, but only in accordance with this ~~title~~ subtitle.

2800 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer
2801 pursuant to an agreement with a brand owner not under common control with the manufacturing brewery
2802 and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the
2803 brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement
2804 be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the
2805 parties.

2806 15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations
2807 shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy
2808 hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees
2809 from using creative marketing techniques in such advertisements, provided that such techniques do not
2810 tend to induce overconsumption or consumption by minors.

2811 16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one
2812 bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals
2813 to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period
2814 and subject to any Board limitations on the frequency of such gifts.

2815 17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of
2816 glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved
2817 by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

2818 18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass,
2819 ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the
2820 Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine
2821 growlers may be used only by persons licensed to sell wine for both on-premises and off-premises
2822 consumption or by gourmet shops granted a retail off-premises wine and beer license. Growlers sold by
2823 gourmet shops shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production,
2824 (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

2825 19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-
2826 premises and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer

2827 license for off-premises consumption in sealed containers made of metal or other materials approved by
2828 the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided
2829 that the alcoholic beverage is placed in the container following an order from the consumer.

2830 20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic
2831 beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations
2832 established by the Board.

2833 21. Establish and make available to all licensees and permittees for which on-premises
2834 consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve
2835 as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar
2836 bystander training module, which shall include (i) information that enables licensees, permittees, and their
2837 employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent
2838 such situations from culminating in sexual assault.

2839 22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises,
2840 available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such
2841 food shall be available in all areas of the licensed premises in which spirits are sold or served.

2842 23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed
2843 beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or
2844 other documents necessary to verify the licensee's compliance with applicable minimum food sale
2845 requirements within 30 days of the date such records or documents are due.

2846 C. The Board may promulgate regulations that:

2847 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to
2848 be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit
2849 status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the
2850 purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-
2851 profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2852 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the
2853 course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-
2854 325.2.

2855 3. Provide incentives to licensees with a proven history of compliance with state and federal laws
2856 and regulations to encourage licensees to conduct their business and related activities in a manner that is
2857 beneficial to the Commonwealth.

2858 D. Board regulations shall be uniform in their application, except those relating to hours of sale
2859 for licensees.

2860 E. Courts shall take judicial notice of Board regulations.

2861 F. The Board's power to regulate shall be broadly construed.

2862 **§ 4.1-112.2. Outdoor advertising; limitations; variances; compliance with Title 33.2.**

2863 A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same
2864 side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which
2865 the advertisement is placed to the nearest edge of a building or structure located on the real property of (i)
2866 a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school
2867 or an institution of higher education; (iii) a public or private playground or similar recreational facility; or
2868 (iv) a dwelling used for residential use.

2869 B. However, (i) if there is no building or structure on a playground or similar recreational facility,
2870 the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed
2871 to the property line of such playground or similar recreational facility and (ii) if a public or private school
2872 providing grade K through 12 education is located across the road from a sign, the measurement shall be
2873 from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a
2874 building or structure located on such real property across the road.

2875 C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from
2876 (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial
2877 school or an institution of higher education; (iii) a public or private playground or similar recreational
2878 facility; or (iv) a dwelling used for residential use, but the circumstances change such that the advertiser

2879 would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as
2880 displayed for the remainder of the term of any written advertising contract, but in no event more than one
2881 year from the date of the change in circumstances.

2882 D. The Board may grant a permit authorizing a variance from the distance requirements of this
2883 section upon a finding that the placement of alcoholic beverage advertising on a sign will not unduly
2884 expose children to alcoholic beverage advertising.

2885 E. Provided such signs are in compliance with local ordinances, the distance and zoning
2886 restrictions contained in this section shall not apply to:

- 2887 1. Signs placed by licensees upon the property on which the licensed premises are located; or
2888 2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade
2889 names, brand names, the terms "distillery," "brewery," "farm winery," or "winery," and tour information.

2890 F. The distance and zoning restrictions contained in this section shall not apply to any sign that is
2891 included in the Integrated Directional Sign Program administered by the Virginia Department of
2892 Transportation or its agents.

2893 G. Nothing in this section shall be construed to authorize billboard signs containing outdoor
2894 alcoholic beverage advertising on property zoned agricultural or residential, or on any unzoned property.
2895 Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor
2896 advertising that would be prohibited under state law or local ordinance.

2897 H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this
2898 ~~title~~ subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted
2899 pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage
2900 directional sign located or to be located on highway rights of way shall also be governed by and comply
2901 with the Integrated Directional Sign Program administered by the Virginia Department of Transportation
2902 or its agents.

2903 **§ 4.1-113.1. Outdoor advertising; compliance with Title 33.2.**

2904 All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~
2905 subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted

2906 pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage
2907 directional sign located or to be located on highway rights-of-way shall also be governed by and comply
2908 with the Integrated Directional Sign Program administered by the Virginia Department of Transportation
2909 or its agents.

2910 **§ 4.1-115. Reports and accounting systems of Board; auditing books and records.**

2911 A. The Board shall make reports to the Governor as he may require covering the administration
2912 and enforcement of this ~~title~~ subtitle. Additionally, the Board shall submit an annual report to the Governor
2913 and General Assembly on or before December 15 each year, which shall contain:

2914 1. A statement of the nature and amount of the business transacted by each government store during
2915 the year;

2916 2. A statement of the assets and liabilities of the Board, including a statement of income and
2917 expenses and such other financial statements and matters as may be necessary to show the result of the
2918 operations of the Board for the year;

2919 3. A statement showing the taxes collected under this ~~title~~ subtitle during the year;

2920 4. General information and remarks about the working of the alcoholic beverage control laws
2921 within the Commonwealth; and

2922 5. Any other information requested by the Governor.

2923 B. The Board shall maintain an accounting system in compliance with generally accepted
2924 accounting principles and approved in accordance with § 2.2-803.

2925 C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual
2926 audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted
2927 by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit
2928 examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

2929 **§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve**
2930 **fund.**

2931 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury,
2932 or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on

2933 account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as
2934 required by § 2.2-1802.

2935 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection
2936 C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i)
2937 the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and
2938 expenses incurred in establishing and maintaining government stores and in the administration of the
2939 provisions of this ~~title~~ subtitle, including the purchasing, building, leasing and operation of distilleries and
2940 the manufacture of alcoholic beverages.

2941 B. The net profits derived under the provisions of this ~~title~~ subtitle shall be transferred by the
2942 Comptroller to the general fund of the state treasury quarterly, within fifty days after the close of each
2943 quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may
2944 deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of
2945 \$2.5 million in connection with the administration of this ~~title~~ subtitle and to provide for the depreciation
2946 on the buildings, plants and equipment owned, held or operated by the Board.

2947 C. The term "net profits" as used in this section means the total of all moneys collected by the
2948 Board less all costs, expenses and charges authorized by this section.

2949 **§ 4.1-118. Certain information not to be made public.**

2950 Neither the Board nor its employees shall divulge any information regarding (i) financial reports
2951 or records required pursuant to § 4.1-114; (ii) the purchase orders and invoices for beer and wine filed
2952 with the Board by wholesale beer and wine licensees; or (iii) beer and wine taxes collected from, refunded
2953 to, or adjusted for any person. The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine
2954 taxes collected pursuant to this ~~title~~ subtitle and to purchase orders and invoices for beer and wine filed
2955 with the Board by wholesale beer and wine licensees.

2956 Nothing contained in this section shall prohibit the use or release of such information or documents
2957 by the Board to any governmental or law-enforcement agency, or when considering the granting, denial,
2958 revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or
2959 permittee.

2960 Nor shall this section prohibit the Board or its employees from compiling and disseminating to any
2961 member of the public aggregate statistical information pertaining to (i) malt beverage excise tax collection
2962 as long as such information does not reveal or disclose excise tax collection from any identified licensee;
2963 (ii) the total quantities of wine sold or shipped into the Commonwealth by each out-of-state winery,
2964 distributor, or importer for resale in the Commonwealth by wholesale wine licensees collectively; (iii) the
2965 total amount of wine sales in the Commonwealth by wholesale wine licensees collectively; or (iv) the total
2966 amount of purchases or sales submitted by licensees as required pursuant to § 4.1-114, provided such
2967 information does not identify the licensee.

2968 **§ 4.1-119. (Effective until July 1, 2021) Operation of government stores.**

2969 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and
2970 operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by
2971 farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled
2972 spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be
2973 approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as
2974 specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board
2975 may discontinue any such store.

2976 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give
2977 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

2978 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and
2979 brands of alcoholic beverages and other Board-approved products that are sold in government stores.
2980 Differences in the cost of operating stores, and market competition and conditions may be reflected in the
2981 sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to
2982 federal instrumentalities (i) authorized and operating under the laws of the United States and regulations
2983 of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or
2984 reservations over which the United States has acquired jurisdiction, at prices which may be greater or less
2985 than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed

2986 to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores,
2987 which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

2988 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who
2989 shall carry out the provisions of this ~~title~~ subtitle and Board regulations governing the operation of
2990 government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a
2991 distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol
2992 beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at
2993 government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an
2994 event licensed by the Board and conducted for the purpose of featuring and educating the consuming
2995 public about spirits products.

2996 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the
2997 provisions of this ~~title~~ subtitle, Board regulations, and the terms of the agency agreement between the
2998 Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to
2999 an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of
3000 the goods sold. If the licensed distiller makes application and meets certain requirements established by
3001 the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board
3002 to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be
3003 limited to the amount due to the Board in applicable taxes and markups.

3004 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries
3005 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of §
3006 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor
3007 of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving
3008 distillery.

3009 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without
3010 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151
3011 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

3012 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to
3013 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall
3014 be in closed containers, sealed and affixed with labels prescribed by the Board.

3015 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part
3016 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm
3017 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a
3018 permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic
3019 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A
3020 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not
3021 lawfully be sold pursuant to § 4.1-304.

3022 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed
3023 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic
3024 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or
3025 cider samples are manufactured within the same licensed premises or on contiguous premises of such
3026 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer,
3027 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case
3028 a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total
3029 samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of
3030 spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used
3031 to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from
3032 serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits
3033 or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed
3034 distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the
3035 licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed
3036 pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or
3037 vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery.

3038 Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on
3039 contiguous premises of the licensed distillery shall be purchased from the Board.

3040 The Board shall establish guidelines governing tasting events conducted pursuant to this
3041 subsection.

3042 Any case fee charged to a licensed distiller by the Board for moving spirits from the production
3043 and bailment area to the tasting area of a government store established by the Board on the distiller's
3044 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

3045 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in
3046 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or
3047 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)
3048 provide notice to licensees on Board policies relating to the assignment of government stores from which
3049 licensees may purchase products and any procedure for the licensee to elect to make purchases from an
3050 alternative government store.

3051 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in
3052 payment for any purchase or series of purchases. The Board may adopt regulations which provide for
3053 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where
3054 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any
3055 consumer.

3056 J. Before the Authority implements any increase in the markup on distilled spirits or any change
3057 to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the
3058 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public
3059 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written
3060 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of
3061 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal
3062 comments before implementing such a price increase.

3063 **§ 4.1-119. (Effective July 1, 2021, until July 1, 2022) Operation of government stores.**

3064 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and
3065 operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by
3066 farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled
3067 spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be
3068 approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as
3069 specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board
3070 may discontinue any such store.

3071 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give
3072 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

3073 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and
3074 brands of alcoholic beverages and other Board-approved products that are sold in government stores.
3075 Differences in the cost of operating stores, and market competition and conditions may be reflected in the
3076 sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to
3077 federal instrumentalities (i) authorized and operating under the laws of the United States and regulations
3078 of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or
3079 reservations over which the United States has acquired jurisdiction, at prices which may be greater or less
3080 than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed
3081 to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores,
3082 which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

3083 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who
3084 shall carry out the provisions of this ~~title~~ subtitle and Board regulations governing the operation of
3085 government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a
3086 distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol
3087 beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at
3088 government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an
3089 event licensed by the Board and conducted for the purpose of featuring and educating the consuming
3090 public about spirits products.

3091 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the
3092 provisions of this ~~title~~ subtitle, Board regulations, and the terms of the agency agreement between the
3093 Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to
3094 an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of
3095 the goods sold. If the licensed distiller makes application and meets certain requirements established by
3096 the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board
3097 to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be
3098 limited to the amount due to the Board in applicable taxes and markups.

3099 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries
3100 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of §
3101 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor
3102 of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving
3103 distillery.

3104 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without
3105 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151
3106 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

3107 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to
3108 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall
3109 be in closed containers, sealed and affixed with labels prescribed by the Board.

3110 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part
3111 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm
3112 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a
3113 permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic
3114 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A
3115 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not
3116 lawfully be sold pursuant to § 4.1-304.

3117 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed
3118 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic
3119 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or
3120 cider samples are manufactured within the same licensed premises or on contiguous premises of such
3121 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer,
3122 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case
3123 a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces
3124 of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and
3125 (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing
3126 in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.
3127 Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises
3128 or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used
3129 in such samples is manufactured on the licensed premises or on contiguous premises of the licensed
3130 distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises
3131 no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on
3132 contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not
3133 manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be
3134 purchased from the Board.

3135 The Board shall establish guidelines governing tasting events conducted pursuant to this
3136 subsection.

3137 Any case fee charged to a licensed distiller by the Board for moving spirits from the production
3138 and bailment area to the tasting area of a government store established by the Board on the distiller's
3139 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

3140 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in
3141 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or
3142 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)
3143 provide notice to licensees on Board policies relating to the assignment of government stores from which

3144 licensees may purchase products and any procedure for the licensee to elect to make purchases from an
3145 alternative government store.

3146 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in
3147 payment for any purchase or series of purchases. The Board may adopt regulations which provide for
3148 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where
3149 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any
3150 consumer.

3151 J. Before the Authority implements any increase in the markup on distilled spirits or any change
3152 to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the
3153 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public
3154 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written
3155 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of
3156 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal
3157 comments before implementing such a price increase.

3158 **§ 4.1-119. (Effective July 1, 2022) Operation of government stores.**

3159 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and
3160 operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by
3161 farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled
3162 spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be
3163 approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as
3164 specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board
3165 may discontinue any such store.

3166 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give
3167 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

3168 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and
3169 brands of alcoholic beverages and other Board-approved products that are sold in government stores.
3170 Differences in the cost of operating stores, and market competition and conditions may be reflected in the

3171 sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to
3172 federal instrumentalities (i) authorized and operating under the laws of the United States and regulations
3173 of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or
3174 reservations over which the United States has acquired jurisdiction, at prices which may be greater or less
3175 than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed
3176 to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores,
3177 which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

3178 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who
3179 shall carry out the provisions of this ~~title~~ subtitle and Board regulations governing the operation of
3180 government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a
3181 distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol
3182 beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at
3183 government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an
3184 event licensed by the Board and conducted for the purpose of featuring and educating the consuming
3185 public about spirits products.

3186 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the
3187 provisions of this ~~title~~ subtitle, Board regulations, and the terms of the agency agreement between the
3188 Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to
3189 an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of
3190 the goods sold. If the licensed distiller makes application and meets certain requirements established by
3191 the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board
3192 to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be
3193 limited to the amount due to the Board in applicable taxes and markups.

3194 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries
3195 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of §
3196 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor

3197 of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving
3198 distillery.

3199 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without
3200 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101
3201 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

3202 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to
3203 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall
3204 be in closed containers, sealed and affixed with labels prescribed by the Board.

3205 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part
3206 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm
3207 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a
3208 permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic
3209 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A
3210 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not
3211 lawfully be sold pursuant to § 4.1-304.

3212 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed
3213 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic
3214 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or
3215 cider samples are manufactured within the same licensed premises or on contiguous premises of such
3216 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer,
3217 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case
3218 a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces
3219 of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and
3220 (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing
3221 in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.
3222 Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises
3223 or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used

3224 in such samples is manufactured on the licensed premises or on contiguous premises of the licensed
3225 distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises
3226 no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on
3227 contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not
3228 manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be
3229 purchased from the Board.

3230 The Board shall establish guidelines governing tasting events conducted pursuant to this
3231 subsection.

3232 Any case fee charged to a licensed distiller by the Board for moving spirits from the production
3233 and bailment area to the tasting area of a government store established by the Board on the distiller's
3234 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

3235 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in
3236 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or
3237 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)
3238 provide notice to licensees on Board policies relating to the assignment of government stores from which
3239 licensees may purchase products and any procedure for the licensee to elect to make purchases from an
3240 alternative government store.

3241 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in
3242 payment for any purchase or series of purchases. The Board may adopt regulations which provide for
3243 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where
3244 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any
3245 consumer.

3246 J. Before the Authority implements any increase in the markup on distilled spirits or any change
3247 to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the
3248 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public
3249 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written
3250 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of

3251 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal
3252 comments before implementing such a price increase.

3253 **§ 4.1-122. Effect of local option referenda.**

3254 A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a
3255 majority of the qualified voters vote "Yes" on the question, then on and after 60 days from the date on
3256 which the order of the court, setting forth the results of such referendum was entered of record, none of
3257 the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or
3258 shipment to persons outside of such county, city, or town authorized under this ~~title~~ subtitle to acquire the
3259 alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train,
3260 boat or airplane selling wine and beer to bona fide passengers.

3261 B. If in any such referendum held in any county, city, or town in which a majority of the qualified
3262 voters have previously voted to prohibit the sale of alcoholic beverages by the Board and in a subsequent
3263 election a majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-121,
3264 then such alcoholic beverages may, in accordance with this ~~title~~ subtitle, be sold within the county, city,
3265 or town on and after 60 days from the day on which the order of the court setting forth the results of such
3266 election is entered of record.

3267 C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's
3268 election district of a county and the majority of voters voting in such referendum voted "Yes," the sale by
3269 the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be
3270 prohibited in such county, town, or supervisor's election district of a county. Notwithstanding this section
3271 and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such
3272 county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for
3273 on-premises consumption, provided the appropriate license fees are paid for the privilege.

3274 D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery
3275 or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell
3276 alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations
3277 into any county, city, or town, except as otherwise prohibited by this ~~title~~ subtitle.

3278 E. For the purpose of this section, when any referendum is held in any town, separate and apart
3279 from the county in which such town or a part thereof is located, such town shall be treated as being separate
3280 and apart from such county.

3281 **§ 4.1-124. (Effective until July 1, 2021) Referendum on the sale of mixed beverages.**

3282 A. The provisions of this ~~title~~ subtitle relating to the sale of mixed beverages shall be effective in
3283 any town, county, or supervisor's election district of a county unless a majority of the voters voting in a
3284 referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants
3285 licensed under this ~~title~~ subtitle should be prohibited. The qualified voters of a town, county, or
3286 supervisor's election district of a county may file a petition with the circuit court of the county asking that
3287 a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by
3288 the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters
3289 equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election
3290 district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

3291 Petition requirements for any county shall be based on the number of registered voters in the
3292 county, including the number of registered voters in any town having a population in excess of 1,000
3293 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall
3294 order the election officials of the county to conduct a referendum on the question.

3295 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper
3296 of general circulation in the town, county, or supervisor's election district once a week for three
3297 consecutive weeks prior to the referendum.

3298 The question on the ballot shall be:

3299 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic
3300 Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election
3301 district of county)?"

3302 The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-
3303 681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the
3304 clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed

3305 beverages prohibited from sale by such referendum shall not be sold by restaurants within the town,
3306 county, or supervisor's election district of a county on or after 30 days following the entry of the order if
3307 a majority of the voters voting in the referendum have voted "Yes."

3308 The provisions of this section shall be applicable to towns having a population in excess of 1,000
3309 to the same extent and subject to the same conditions and limitations as are otherwise applicable to
3310 counties under this section. Such towns shall be treated as separate local option units, and only residents
3311 of any such town shall be eligible to vote in any referendum held pursuant to this section for any such
3312 town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote
3313 in any referendum held pursuant to this section for any county in which the town is located.

3314 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be
3315 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100
3316 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants
3317 licensed under this ~~title~~ subtitle should be prohibited was previously held in the former city and a majority
3318 of the voters voting in such referendum voted "Yes."

3319 B. Once a referendum has been held, no other referendum on the same question shall be held in
3320 the town, county, or supervisor's election district of a county for a period of 23 months.

3321 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed
3322 on property dedicated for industrial or commercial development and controlled through the provision of
3323 public utilities and covenanting of the land by any multijurisdictional industrial development authority, as
3324 set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates
3325 under a partnership agreement between three or more counties, cities, or towns and such jurisdictions
3326 participate administratively and financially in the authority and (ii) the sale of mixed beverages is
3327 permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the
3328 counties and that the governing board of the authority authorizes an establishment located within the
3329 confines of such property to apply to the Board for such license. The appropriate license fees shall be paid
3330 for this privilege.

3331 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122,
3332 the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not
3333 produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

3334 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage
3335 restaurant license to a restaurant located on the premises of and operated by a private club exclusively for
3336 its members and their guests, subject to the qualifications and restrictions on the issuance of such license
3337 imposed by § 4.1-210. However, no license authorized by this subsection shall be granted if the private
3338 club restricts its membership on the basis of race, color, creed, national origin or sex.

3339 **§ 4.1-124. (Effective July 1, 2021) Referendum on the sale of mixed beverages.**

3340 A. The provisions of this ~~title~~ subtitle relating to the sale of mixed beverages shall be effective in
3341 any town, county, or supervisor's election district of a county unless a majority of the voters voting in a
3342 referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants
3343 licensed under this ~~title~~ subtitle should be prohibited. The qualified voters of a town, county, or
3344 supervisor's election district of a county may file a petition with the circuit court of the county asking that
3345 a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by
3346 the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters
3347 equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election
3348 district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

3349 Petition requirements for any county shall be based on the number of registered voters in the
3350 county, including the number of registered voters in any town having a population in excess of 1,000
3351 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall
3352 order the election officials of the county to conduct a referendum on the question.

3353 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper
3354 of general circulation in the town, county, or supervisor's election district once a week for three
3355 consecutive weeks prior to the referendum.

3356 The question on the ballot shall be:

3357 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic
3358 Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election
3359 district of county)?"

3360 The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-
3361 681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the
3362 clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed
3363 beverages prohibited from sale by such referendum shall not be sold by restaurants within the town,
3364 county, or supervisor's election district of a county on or after 30 days following the entry of the order if
3365 a majority of the voters voting in the referendum have voted "Yes."

3366 The provisions of this section shall be applicable to towns having a population in excess of 1,000
3367 to the same extent and subject to the same conditions and limitations as are otherwise applicable to
3368 counties under this section. Such towns shall be treated as separate local option units, and only residents
3369 of any such town shall be eligible to vote in any referendum held pursuant to this section for any such
3370 town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote
3371 in any referendum held pursuant to this section for any county in which the town is located.

3372 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be
3373 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100
3374 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants
3375 licensed under this ~~title~~ subtitle should be prohibited was previously held in the former city and a majority
3376 of the voters voting in such referendum voted "Yes."

3377 B. Once a referendum has been held, no other referendum on the same question shall be held in
3378 the town, county, or supervisor's election district of a county for a period of 23 months.

3379 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed
3380 on property dedicated for industrial or commercial development and controlled through the provision of
3381 public utilities and covenanting of the land by any multijurisdictional industrial development authority, as
3382 set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates
3383 under a partnership agreement between three or more counties, cities, or towns and such jurisdictions

3384 participate administratively and financially in the authority and (ii) the sale of mixed beverages is
3385 permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the
3386 counties and that the governing board of the authority authorizes an establishment located within the
3387 confines of such property to apply to the Board for such license. The appropriate license fees shall be paid
3388 for this privilege.

3389 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122,
3390 the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not
3391 produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

3392 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage
3393 restaurant license to a restaurant located on the premises of and operated by a private club exclusively for
3394 its members and their guests, subject to the qualifications and restrictions on the issuance of such license
3395 imposed by § 4.1-206.3. However, no license authorized by this subsection shall be granted if the private
3396 club restricts its membership on the basis of race, color, creed, national origin, or sex.

3397 **§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.**

3398 A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance
3399 or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale
3400 distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in
3401 the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or
3402 regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of
3403 the Board, and federal law at a licensed farm winery.

3404 No provision of law, general or special, shall be construed to authorize any county, city or town to
3405 adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the
3406 taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the
3407 authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in
3408 whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an
3409 annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege

3410 tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and
3411 treats alcoholic beverages the same as if they were nonalcoholic beverages.

3412 B. However, the governing body of any county, city, or town may adopt an ordinance that (i)
3413 prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsections B and E
3414 of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii)
3415 subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage
3416 containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public
3417 street.

3418 C. Except as provided in this section, all local acts, including charter provisions and ordinances of
3419 cities and towns, inconsistent with any of the provisions of this ~~title~~ subtitle, are repealed to the extent of
3420 such inconsistency.

3421 **§ 4.1-200. Exemptions from licensure.**

3422 The licensure requirements of this chapter shall not apply to:

3423 1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care
3424 of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or
3425 causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is
3426 in need of the same, either by way of external application or otherwise for emergency medicinal purposes.
3427 Such person may charge for the alcoholic beverages so administered, and carry such stock as may be
3428 necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so
3429 administered to him where the same have been supplied to the institution by the Board free of charge.

3430 2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to
3431 engage in such business of any medicine containing sufficient medication to prevent it from being used
3432 as a beverage.

3433 3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to
3434 engage in such business of any medicinal preparations manufactured in accordance with formulas
3435 prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations;
3436 and other bona fide medicinal and technical preparations; which contain no more alcohol than is necessary

3437 to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than
3438 is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured
3439 and sold to be used exclusively as medicine and not as beverages.

3440 4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations
3441 and solutions not intended for internal human use nor to be sold as beverages.

3442 5. The manufacture and sale of food products known as flavoring extracts which are manufactured
3443 and sold for cooking and culinary purposes only and not sold as beverages.

3444 6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic
3445 consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided,
3446 wine or beer or both, in an amount not to exceed the limits permitted by federal law.

3447 Any person who manufactures wine or beer in accordance with this subdivision may remove from
3448 his residence an amount not to exceed fifty liters of such wine or fifteen gallons of such beer on any one
3449 occasion for (i) personal or family use, provided such use does not violate the provisions of this ~~title~~
3450 subtitle or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an
3451 amount not to exceed (a) one liter of wine per person per year or (b) seventy-two ounces of beer per person
3452 per year, provided such gift is for noncommercial purposes; or (iii) giving to any person to whom beer
3453 may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b)
3454 two ounces of beer by volume for on-premises consumption at events organized for judging or exhibiting
3455 such wine or beer, including events held on the premises of a retail licensee. Nothing in this paragraph
3456 shall be construed to authorize the sale of such wine or beer.

3457 The provision of this subdivision shall not apply to any person who resides on property on which
3458 a winery, farm winery, or brewery is located.

3459 7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for
3460 his personal use or that of his family. However, such alcoholic beverages may be served or given to guests
3461 in such residence by such person, his family or servants when (i) such guests are 21 years of age or older
3462 or are accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption
3463 or possession of such alcoholic beverages by family members or such guests occurs only in such residence

3464 where the alcoholic beverages are allowed to be served or given pursuant to this subdivision, and (iii) such
3465 service or gift is in no way a shift or device to evade the provisions of this ~~title~~ subtitle. The provisions of
3466 this subdivision shall not apply when a person serves or provides alcoholic beverages to a guest occupying
3467 the residence as the lessee of a short-term rental, as that term is defined in § 15.2-983, regardless of
3468 whether the person who permanently resides in the residence is present during the short-term rental.

3469 8. Any person who manufactures and sells cider to distillery licensees, or any person who
3470 manufactures wine from grapes grown by such person and sells it to winery licensees.

3471 9. The sale of wine and beer in or through canteens or post exchanges on United States reservations
3472 when permitted by the proper authority of the United States.

3473 10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private
3474 meeting or private party limited in attendance to members and guests of a particular group, association or
3475 organization at a banquet or similar affair, or at a special event, if a banquet license has been granted.
3476 However, no banquet license shall be required for private meetings or private parties limited in attendance
3477 to the members of a common interest community as defined in § 54.1-2345 and their guests, provided (i)
3478 the alcoholic beverages shall not be sold or charged for in any way, (ii) the premises where the alcoholic
3479 beverages are consumed is limited to the common area regularly occupied and utilized for such private
3480 meetings or private parties, and (iii) such meetings or parties are not open to the public.

3481 **§ 4.1-201. (Effective until July 1, 2021) Conduct not prohibited by this subtitle; limitation.**

3482 A. Nothing in this ~~title~~ subtitle or any Board regulation adopted pursuant thereto shall prohibit:

3483 1. Any club licensed under this chapter from keeping for consumption by its members any
3484 alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold,
3485 dispensed or given away in violation of this ~~title~~ subtitle.

3486 2. Any person from having grain, fruit or fruit products and any other substance, when grown or
3487 lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages
3488 to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with
3489 Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where
3490 distilled except in accordance with Board regulations.

3491 3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere,
3492 alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such
3493 alcoholic beverages.

3494 4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in
3495 closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to
3496 (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of
3497 resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of
3498 the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the
3499 Commonwealth for resale outside the Commonwealth.

3500 5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant
3501 for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee,
3502 provided the places of business or establishments for which the retail licenses are desired are located upon
3503 the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such
3504 person contiguous to such premises, or in a development contiguous to such premises owned and operated
3505 by such person or a wholly owned subsidiary.

3506 6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other
3507 than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such
3508 alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the
3509 Commonwealth for resale outside the Commonwealth.

3510 7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed
3511 containers from other wineries or farm wineries located inside or outside the Commonwealth, or the
3512 receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from
3513 fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to
3514 be used only for the fortification of wine produced by the licensee in accordance with Board regulations,
3515 or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed
3516 to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale
3517 outside the Commonwealth.

3518 8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made
3519 from fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the
3520 sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to persons
3521 outside of the Commonwealth for resale outside of the Commonwealth.

3522 9. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to
3523 another farm winery or winery licensee for the purpose of additional bottling in accordance with Board
3524 regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

3525 10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed
3526 containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used
3527 by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be
3528 deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent
3529 it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth. The
3530 selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate
3531 records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

3532 11. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to
3533 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail on-
3534 premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to persons to
3535 whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed beverage
3536 licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic
3537 beverages may be lawfully sold for on-premises consumption. Samples of wine shall not exceed two
3538 ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-half
3539 ounce. No more than two product samples shall be given to any person per visit.

3540 12. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not
3541 licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-
3542 premises retail licensees or prohibit any such retail licensee from displaying the service items on the
3543 premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain
3544 a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less

3545 than two years from the date of each sale of the service items. As used in this subdivision, "service items"
3546 mean articles of tangible personal property normally used by the employees of on-premises retail licensees
3547 to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and
3548 coasters.

3549 13. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed
3550 in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties,
3551 including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage
3552 advertising. Such items may be distributed to retail licensees in quantities equal to the number of
3553 employees of the retail establishment present at the time the items are delivered. Thereafter, such
3554 employees may wear or display the items on the licensed premises.

3555 14. Any (i) retail on-premises wine or beer licensee, his agent or employee from offering for sale
3556 or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines
3557 or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage
3558 licensee, his agent or employee from offering for sale or selling for one price to any person to whom
3559 alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more
3560 than five different spirits products.

3561 15. Any restaurant licensed under this chapter from permitting the consumption of lawfully
3562 acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by
3563 the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a
3564 retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto
3565 the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee may
3566 charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee
3567 shall not charge any other fee to such customer.

3568 16. Any winery, farm winery, wine importer, or wine wholesaler licensee from providing to adult
3569 customers of licensed retail establishments information about wine being consumed on such premises.

3570 17. Any private swim club operated by a duly organized nonprofit corporation or association from
3571 allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and
3572 consume such alcoholic beverages on the premises of such club.

3573 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for
3574 resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee
3575 from receiving or selling the same.

3576 **§ 4.1-201. (Effective July 1, 2021) Conduct not prohibited by this subtitle; limitation.**

3577 A. Nothing in this ~~title~~ subtitle or any Board regulation adopted pursuant thereto shall prohibit:

3578 1. Any club licensed under this chapter from keeping for consumption by its members any
3579 alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold,
3580 dispensed or given away in violation of this ~~title~~ subtitle.

3581 2. Any person from having grain, fruit or fruit products and any other substance, when grown or
3582 lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages
3583 to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with
3584 Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where
3585 distilled except in accordance with Board regulations.

3586 3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere,
3587 alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such
3588 alcoholic beverages.

3589 4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in
3590 closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to
3591 (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of
3592 resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of
3593 the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the
3594 Commonwealth for resale outside the Commonwealth.

3595 5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant
3596 for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee,

3597 provided the places of business or establishments for which the retail licenses are desired are located upon
3598 the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such
3599 person contiguous to such premises, or in a development contiguous to such premises owned and operated
3600 by such person or a wholly owned subsidiary.

3601 6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other
3602 than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such
3603 alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the
3604 Commonwealth for resale outside the Commonwealth.

3605 7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed
3606 containers from other wineries or farm wineries located inside or outside the Commonwealth, or the
3607 receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from
3608 fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to
3609 be used only for the fortification of wine produced by the licensee in accordance with Board regulations,
3610 or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed
3611 to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale
3612 outside the Commonwealth.

3613 8. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to
3614 another farm winery or winery licensee for the purpose of additional bottling in accordance with Board
3615 regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

3616 9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed
3617 containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used
3618 by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be
3619 deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent
3620 it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth. The
3621 selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate
3622 records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

3623 10. Any retail on-and-off-premises wine and beer licensee, his agent or employee, from giving a
3624 sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises
3625 consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer,
3626 or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption.
3627 Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples
3628 of spirits shall not exceed one-half ounce, unless served as a mixed beverage, in which case a sample of
3629 spirits may contain up to one and one-half ounces of spirits. No more than 12 ounces of beer, five ounces
3630 of wine, or three ounces of spirits shall be given to any person per day.

3631 11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not
3632 licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-
3633 premises retail licensees or prohibit any such retail licensee from displaying the service items on the
3634 premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain
3635 a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less
3636 than two years from the date of each sale of the service items. As used in this subdivision, "service items"
3637 mean articles of tangible personal property normally used by the employees of on-premises retail licensees
3638 to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and
3639 coasters.

3640 12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed
3641 in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties,
3642 including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage
3643 advertising. Such items may be distributed to retail licensees in quantities equal to the number of
3644 employees of the retail establishment present at the time the items are delivered. Thereafter, such
3645 employees may wear or display the items on the licensed premises.

3646 13. Any (i) retail on-premises wine and beer licensee, his agent or employee from offering for sale
3647 or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines
3648 or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage
3649 licensee, his agent or employee from offering for sale or selling for one price to any person to whom

3650 alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more
3651 than five different spirits products.

3652 14. Any restaurant licensed under this chapter from permitting the consumption of lawfully
3653 acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by
3654 the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a
3655 retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto
3656 the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee may
3657 charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee
3658 shall not charge any other fee to such customer.

3659 15. Any winery, farm winery, wine importer, wine wholesaler, brewery, limited brewery, beer
3660 importer, beer wholesaler, or distiller licensee from providing to adult customers of licensed retail
3661 establishments information about wine, beer, or spirits being consumed on such premises.

3662 16. Any private swim club operated by a duly organized nonprofit corporation or association from
3663 allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and
3664 consume such alcoholic beverages on the premises of such club.

3665 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for
3666 resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee
3667 from receiving or selling the same.

3668 **§ 4.1-202. To whom privileges conferred by licenses extend; liability for violations of law.**

3669 The privilege of any licensee to sell or serve alcoholic beverages shall extend to such licensee and
3670 to all agents or employees of such licensee for the purpose of selling or serving alcoholic beverages under
3671 such license. The licensee may be held liable for any violation of this ~~title~~ subtitle or any Board regulation
3672 committed by such agents or employees in connection with their employment.

3673 **§ 4.1-205. (Effective until July 1, 2021) Local licenses.**

3674 A. In addition to the state licenses provided for in this chapter, the governing body of each county,
3675 city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town
3676 licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture,

3677 bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses
3678 authorized by § 4.1-211. Subject to § 4.1-233, the governing body of a county, city or town may classify
3679 licenses and graduate the license taxes therefor in the manner it deems proper.

3680 B. No county, city or town shall issue a local license to any person who does not hold or secure
3681 simultaneously the proper state license. If any person holds any local license without at the same time
3682 holding the proper state license, the local license, during the period when such person does not hold the
3683 proper state license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

3684 **§ 4.1-205. (Effective July 1, 2021) Local licenses.**

3685 A. In addition to the state licenses provided for in this chapter, the governing body of each county,
3686 city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town
3687 licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture,
3688 bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses
3689 authorized by § 4.1-211. Subject to § 4.1-233.1, the governing body of a county, city or town may classify
3690 licenses and graduate the license taxes therefor in the manner it deems proper.

3691 B. No county, city, or town shall issue a local license to any person who does not hold or secure
3692 simultaneously the proper state license. If any person holds any local license without at the same time
3693 holding the proper state license, the local license, during the period when such person does not hold the
3694 proper state license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

3695 **§ 4.1-206. (Repealed effective July 1, 2021) Alcoholic beverage licenses.**

3696 A. The Board may grant the following licenses relating to alcoholic beverages generally:

3697 1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other
3698 than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in
3699 closed containers, to the Board and to persons outside the Commonwealth for resale outside the
3700 Commonwealth. When the Board has established a government store on the distiller's licensed premises
3701 pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to
3702 consumers to participate in an organized tasting event conducted in accordance with subsection G of §
3703 4.1-119 and Board regulations.

3704 2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on
3705 land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural
3706 products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's
3707 licensees shall be treated as distillers for all purposes of this ~~title~~ subtitle except as otherwise provided in
3708 this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an
3709 agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use.
3710 For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential
3711 conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition
3712 shall otherwise limit or affect local zoning authority.

3713 3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic
3714 beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with
3715 Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale
3716 outside the Commonwealth.

3717 4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical
3718 services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired
3719 alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests
3720 thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall
3721 not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use
3722 the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency
3723 station or both, regularly occupied as such and recognized by the governing body of the county, city, or
3724 town in which it is located. Under conditions as specified by Board regulation, such premises may be other
3725 than a volunteer fire or volunteer emergency medical services agency station, provided such other
3726 premises are occupied and under the control of the volunteer fire department or volunteer emergency
3727 medical services agency while the privileges of its license are being exercised.

3728 5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages
3729 in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is
3730 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and

3731 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
3732 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
3733 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
3734 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes
3735 outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one
3736 means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas
3737 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
3738 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

3739 6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages
3740 of the type specified in the license in designated areas at events held by the licensee. A tasting license
3741 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic
3742 beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting
3743 license shall be required for conduct authorized by § 4.1-201.1.

3744 7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under §
3745 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption
3746 of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and
3747 guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member
3748 and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the
3749 licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied
3750 and utilized as such.

3751 8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt
3752 and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired
3753 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However,
3754 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
3755 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian,
3756 hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

3757 9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully
3758 acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii)
3759 serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee
3760 shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such
3761 customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or
3762 consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied
3763 and utilized as such.

3764 10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the
3765 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof
3766 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or
3767 indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's
3768 premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

3769 11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the
3770 premises of the licensee to any such bona fide customer attending either a private gathering or a special
3771 event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce
3772 glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the
3773 wine or beer served or consumed. The privileges of this license shall be limited to the premises of the
3774 meal-assembly kitchen regularly occupied and utilized as such.

3775 12. Canal boat operator license, which shall authorize the licensee to permit the consumption of
3776 lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending
3777 either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee
3778 to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited
3779 to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways
3780 adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully
3781 acquired alcoholic beverages on the premises in all areas and locations covered by the license.

3782 13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the
3783 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine

3784 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic
3785 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the
3786 licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one
3787 adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly
3788 occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

3789 14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the
3790 premises of the licensee to any such bona fide customer; however, the licensee shall not give more than
3791 two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or
3792 otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this
3793 license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

3794 15. Commercial lifestyle center license, which may be issued only to a commercial owners'
3795 association governing a commercial lifestyle center, which shall authorize any retail on-premises
3796 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
3797 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of
3798 the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
3799 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
3800 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such
3801 tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises
3802 restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and
3803 such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the
3804 name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic
3805 beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The
3806 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed
3807 premises; however, no physical barriers shall be required for this purpose. The licensee shall provide
3808 adequate security for the licensed premises to ensure compliance with the applicable provisions of this
3809 ~~the~~ subtitle and Board regulations.

3810 16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed
3811 premises for off-premises consumption confectionery that contains five percent or less alcohol by volume.
3812 Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is
3813 sold.

3814 17. Local special events license, which may be issued only to a locality, business improvement
3815 district, or nonprofit organization and which shall authorize (i) the licensee to permit the consumption of
3816 alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent
3817 retail on-premises licensee that is located within the area designated by the Board for the special event to
3818 sell alcoholic beverages within the permanent retail location for consumption in the area designated for
3819 the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic
3820 beverages at retail, upon approval of such businesses. In determining the designated area for the special
3821 event, the Board shall consult with the locality. Local special events licensees shall be limited to 16 special
3822 events per year, and the duration of any special event shall not exceed three consecutive days. Such
3823 limitations on the number of special events that may be held shall not apply during the effective dates of
3824 any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public
3825 health emergency and that effectively reduces allowable restaurant seating capacity; however, local
3826 special events licensees shall be subject to all other applicable provisions of this ~~title~~ subtitle and Board
3827 regulations and shall provide notice to the Board regarding the days and times during which the privileges
3828 of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises
3829 licensees located within the designated area may be consumed at the special event, and such alcoholic
3830 beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the
3831 name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased.
3832 Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The
3833 local special events licensee shall post appropriate signage clearly demarcating for the public the
3834 boundaries of the special event; however, no physical barriers shall be required for this purpose. The local
3835 special events licensee shall provide adequate security for the special event to ensure compliance with the
3836 applicable provisions of this ~~title~~ subtitle and Board regulations.

3837 18. Coworking establishment license, which shall authorize the licensee to (i) permit the
3838 consumption of lawfully acquired wine or beer between 4:00 p.m. and 8:00 p.m. on the premises of the
3839 licensee by any member and up to two guests of each member, provided that such member and guests are
3840 persons who may lawfully consume alcohol and an employee of the coworking establishment is present,
3841 and (ii) serve wine and beer on the premises of the licensee between 4:00 p.m. and 8:00 p.m. to any
3842 member and up to two guests of each member, provided that such member and guests are persons to whom
3843 alcoholic beverages may be lawfully served. However, the licensee shall not give more than two five-
3844 ounce glasses of wine or two 12-ounce glasses of beer to any person, nor shall it sell or otherwise charge
3845 a fee for the wine or beer served or consumed. For purposes of this subdivision, the payment of
3846 membership dues by a member to the coworking establishment shall not constitute a sale or charge for
3847 alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership
3848 dues increases. The privileges of this license shall be limited to the premises of the coworking
3849 establishment, regularly occupied and utilized as such.

3850 19. Bespoke clothier establishment license, which shall authorize the licensee to serve wine or beer
3851 for on-premises consumption upon the licensed premises approved by the Board to any member; however,
3852 the licensee shall not give more than (i) two five-ounce glasses of wine or (ii) two 12-ounce glasses of
3853 beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer
3854 served or consumed. For purposes of this subdivision, the payment of membership dues by a member to
3855 the bespoke clothier establishment shall not constitute a sale or charge for alcohol, provided that the
3856 availability of alcohol is not a privilege for which the amount of membership dues increases. The
3857 privileges of this license shall be limited to the premises of the bespoke clothier establishment, regularly
3858 occupied and utilized as such.

3859 B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board
3860 in accordance with this ~~title~~ subtitle and (ii) is in compliance with the local zoning ordinance as an
3861 agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall
3862 be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this
3863 section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether

3864 by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned
3865 residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses
3866 thereof so long as specifically approved by the locality by special exception. Any such limited distillery
3867 located on land zoned residential conservation prior to July 1, 2016, may construct a new building or
3868 structure so long as specifically approved by the locality by special exception. All such licensees shall
3869 comply with the requirements of this ~~title~~ subtitle and Board regulations for renewal of such license or the
3870 issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1,
3871 2016.

3872 **§ 4.1-206.1. (Effective July 1, 2021) Manufacturer licenses.**

3873 The Board may grant the following manufacturer licenses:

3874 1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other
3875 than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in
3876 closed containers, to the Board and to persons outside the Commonwealth for resale outside the
3877 Commonwealth. When the Board has established a government store on the distiller's licensed premises
3878 pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to
3879 consumers to participate in an organized tasting event conducted in accordance with subsection G of §
3880 4.1-119 and Board regulations.

3881 2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on
3882 land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural
3883 products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's
3884 licensees shall be treated as distillers for all purposes of this ~~title~~ subtitle except as otherwise provided in
3885 this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an
3886 agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use.
3887 For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential
3888 conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition
3889 shall otherwise limit or affect local zoning authority.

3890 3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver
3891 or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons
3892 licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the
3893 Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the
3894 brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that
3895 not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is
3896 manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers
3897 and other reusable containers, for off-premises consumption.

3898 4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer
3899 per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned
3900 agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including
3901 barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the
3902 farm. The licensed premises shall be limited to the portion of the farm on which agricultural products,
3903 including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown
3904 and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any
3905 residence and the curtilage thereof. However, the Board may, with notice to the local governing body in
3906 accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part
3907 of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned
3908 as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery
3909 use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential
3910 conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition
3911 shall otherwise limit or affect local zoning authority.

3912 Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ subtitle except
3913 as otherwise provided in this subdivision.

3914 5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver
3915 or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell
3916 the wine so manufactured at wholesale for the purpose of resale, and to persons outside the

Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and any wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this ~~title~~ subtitle, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is

3943 purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served
3944 and sold for on-premises consumption at these business places.

3945 7. Wine importer's licenses, which shall authorize persons located within or outside the
3946 Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed
3947 containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of
3948 resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

3949 8. Beer importer's licenses, which shall authorize persons located within or outside the
3950 Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers,
3951 to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to
3952 persons outside the Commonwealth for resale outside the Commonwealth.

3953 **§ 4.1-206.2. (Effective July 1, 2021) Wholesale licenses.**

3954 The Board may grant the following wholesale licenses:

3955 1. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and
3956 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the
3957 license, in accordance with Board regulations, in closed containers to (i) persons licensed under this
3958 chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered
3959 under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii)
3960 persons outside the Commonwealth for resale outside the Commonwealth.

3961 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth
3962 who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's
3963 license and purchases beer for resale pursuant to the privileges of such beer importer's license.

3964 2. Wholesale wine licenses, including those granted pursuant to subdivision 3, which shall
3965 authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or
3966 ship the wine from one or more premises identified in the license, in accordance with Board regulations,
3967 in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside
3968 the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for

3969 sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for
3970 ports of call of a foreign country or another state.

3971 No wholesale wine licensee shall purchase wine for resale from a person outside the
3972 Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a
3973 wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's
3974 license.

3975 3. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation
3976 created in accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services
3977 to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery
3978 or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall
3979 provide such distribution services in accordance with the terms of a written agreement approved by the
3980 corporation between it and the winery or farm winery licensee, which shall comply with the provisions of
3981 this ~~title~~ subtitle and Board regulations. The corporation shall receive all of the privileges of, and be subject
3982 to, all laws and regulations governing wholesale wine licenses granted under subdivision 2.

3983 **§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.**

3984 A. The Board may grant the following mixed beverages licenses:

3985 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed
3986 beverages for consumption in dining areas and other designated areas of such restaurant. Such license may
3987 be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food
3988 cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises,
3989 after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed
3990 beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor
3991 dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have
3992 more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are
3993 under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall
3994 not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

3995 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent
3996 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,
3997 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed
3998 beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits
3999 packaged in original closed containers purchased from the Board for on-premises consumption to
4000 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private
4001 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale
4002 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed
4003 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own
4004 lawfully acquired spirits in bedrooms or private rooms.

4005 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club
4006 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in
4007 another city with which it has an agreement for reciprocal dining privileges, such license shall also
4008 authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell
4009 spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50
4010 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food
4011 in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located
4012 on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the
4013 granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts
4014 from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and
4015 guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale
4016 of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any
4017 consideration of the qualifications of such restaurant for a license from the Board.

4018 If the restaurant is located on the premises of and operated by a municipal golf course, the Board
4019 shall recognize the seasonal nature of the business and waive any applicable monthly food sales
4020 requirements for those months when weather conditions may reduce patronage of the golf course, provided
4021 that prepared food, including meals, is available to patrons during the same months. The gross receipts

4022 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
4023 served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross
4024 receipts from the sale of mixed beverages and food on an annualized basis.

4025 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license
4026 shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard
4027 to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas
4028 upon the licensed premises approved by the Board and other designated areas of the resort, including
4029 outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully
4030 acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and
4031 private guest rooms.

4032 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
4033 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for
4034 off-premises consumption; however, the licensee shall be required to pay the local fee required for such
4035 additional license pursuant to § 4.1-233.1.

4036 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in
4037 the business of providing food and beverages to others for service at private gatherings or at special events,
4038 which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The
4039 annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages
4040 served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the
4041 gross receipts from the sale of mixed beverages and food.

4042 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly
4043 engaged in the business of providing food and beverages to others for service at private gatherings or at
4044 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell
4045 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of
4046 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred
4047 to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed
4048 beverages and food.

4049 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
4050 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
4051 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
4052 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
4053 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier
4054 licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and
4055 to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic
4056 beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air
4057 carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic
4058 beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the
4059 air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be
4060 transported, stored, and delivered by its authorized representative. The granting of a license pursuant to
4061 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and
4062 beer for on-premises consumption or in closed containers for off-premises consumption; however, the
4063 licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

4064 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell
4065 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during
4066 scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all
4067 dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-
4068 premises consumption. Such license may be granted to persons operating food concessions at an outdoor
4069 motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a
4070 track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of
4071 the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
4072 premises in all areas and locations covered by the license. The granting of a license pursuant to this
4073 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer
4074 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
4075 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

4076 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
4077 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
4078 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the
4079 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the
4080 sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed
4081 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license
4082 pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve
4083 wine and beer for on-premises consumption or in closed containers for off-premises consumption;
4084 however, the licensee shall be required to pay the local fee required for such additional license pursuant
4085 to § 4.1-233.1.

4086 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee
4087 to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable
4088 containers or in single original metal cans for on-premises consumption in all seating areas, concourses,
4089 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the
4090 Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for
4091 on-premises consumption or in closed containers for off-premises consumption; however, the licensee
4092 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such
4093 licenses may be granted to the following:

4094 a. Corporations or associations operating a performing arts facility, provided the performing arts
4095 facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease,
4096 the original term of which was for more than one year's duration; and (iii) has been rehabilitated in
4097 accordance with historic preservation standards;

4098 b. Persons operating food concessions at any performing arts facility located in the City of Norfolk
4099 or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-
4100 term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity
4101 in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards;
4102 and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the

4103 premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum
4104 established by Board regulations for mixed beverage restaurants;

4105 c. Persons operating food concessions at any performing arts facility located in the City of
4106 Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease
4107 or concession agreement, the original term of which was more than five years; (ii) has a total capacity in
4108 excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

4109 d. Persons operating food concessions at any performing arts facility located in the arts and cultural
4110 district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona
4111 fide long-term lease or concession agreement, the original term of which was more than five years; (ii)
4112 has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts
4113 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
4114 served on the premises that meet or exceed the monthly minimum established by Board regulations for
4115 mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

4116 e. Persons operating food concessions at any multipurpose theater located in the historical district
4117 of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity
4118 and (ii) has a total capacity in excess of 100 patrons;

4119 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
4120 similar facility that has seating for more than 20,000 persons and is located in Prince William County or
4121 the City of Virginia Beach;

4122 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
4123 similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the
4124 City of Portsmouth; or

4125 h. Persons operating food concessions at any corporate and performing arts facility located in
4126 Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide
4127 long-term lease, management, or concession agreement, the original term of which was more than one
4128 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the

4129 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the
4130 licensed premises approved by the Board.

4131 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any
4132 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to
4133 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and
4134 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed
4135 beverage caterer at the same business premises designated in the license, with a common alcoholic
4136 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the
4137 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision
4138 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this
4139 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer
4140 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
4141 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

4142 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages
4143 in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is
4144 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
4145 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
4146 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
4147 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
4148 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes
4149 outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one
4150 means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas
4151 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
4152 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

4153 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under §
4154 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption
4155 of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and

4156 guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member
4157 and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the
4158 licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied
4159 and utilized as such.

4160 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the
4161 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof
4162 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or
4163 indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's
4164 premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

4165 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'
4166 association governing a commercial lifestyle center, which shall authorize any retail on-premises
4167 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
4168 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of
4169 the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
4170 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
4171 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such
4172 tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises
4173 restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and
4174 such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the
4175 name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic
4176 beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The
4177 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed
4178 premises; however, no physical barriers shall be required for this purpose. The licensee shall provide
4179 adequate security for the licensed premises to ensure compliance with the applicable provisions of this
4180 ~~title~~ subtitle and Board regulations.

4181 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve
4182 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such

4183 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of
4184 meals; (ii) that is located on property owned by the United States government or an agency thereof and
4185 used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of
4186 food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the
4187 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale
4188 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include
4189 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may
4190 have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas
4191 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
4192 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting
4193 of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to
4194 sell and serve wine and beer for on-premises consumption or in closed containers for off-premises
4195 consumption; however, the licensee shall be required to pay the local fee required for such additional
4196 license pursuant to § 4.1-233.1.

4197 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
4198 association operating either a performing arts facility or an art education and exhibition facility; (ii) a
4199 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and
4200 objects significant in American history and culture; (iii) persons operating an agricultural event and
4201 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space
4202 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped
4203 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events
4204 conducted on the premises of a museum for historic interpretation that is owned and operated by the
4205 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a
4206 bona fide lease, the original term of which was for more than one year's duration. Such license shall
4207 authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-
4208 premises consumption in areas upon the licensed premises approved by the Board.

4209 B. The Board may grant an on-and-off-premises wine and beer license to the following:

4210 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in
4211 closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without
4212 meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest
4213 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas.
4214 However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize
4215 the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate
4216 by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic
4217 beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight
4218 lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the
4219 amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at
4220 least one meal is provided each day by the hotel to such guests. With regard to facilities registered in
4221 accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are
4222 also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee,
4223 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by
4224 the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,
4225 whether or not contiguous to the licensed premises, which may have more than one means of ingress and
4226 egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control
4227 of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved
4228 for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

4229 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients
4230 for their on-premises consumption only in such rooms, provided the consent of the patient's attending
4231 physician is first obtained or (ii) in closed containers for off-premises consumption.

4232 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises
4233 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i)
4234 the grocery store is located in any town or in a rural area outside the corporate limits of any city or town
4235 and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists
4236 and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

4237 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer
4238 during any event and immediately subsequent thereto to patrons within all seating areas, concourses,
4239 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for
4240 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original
4241 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and
4242 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered
4243 by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums,
4244 racetracks, or similar facilities.

4245 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer
4246 during the performance of any event to patrons within all seating areas, concourses, walkways, or
4247 concession areas, or other areas approved by the Board (i) in closed containers for off-premises
4248 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for
4249 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own
4250 lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.
4251 Such licenses may be granted to persons operating food concessions at any outdoor performing arts
4252 amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in
4253 Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500
4254 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or
4255 Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500
4256 persons and is located in Henrico County.

4257 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to
4258 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
4259 and such additional locations designated by the Board in such facilities (i) in closed containers for off-
4260 premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal
4261 cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume
4262 his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the
4263 license. Such licenses may be granted to persons operating food concessions at exhibition or exposition

4264 halls, convention centers, or similar facilities located in any county operating under the urban county
4265 executive form of government or any city that is completely surrounded by such county. For purposes of
4266 this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting
4267 private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet
4268 of floor space.

4269 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during
4270 events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession
4271 areas, dining areas, and such additional locations designated by the Board in such facilities, for on-
4272 premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to
4273 this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such
4274 licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural
4275 Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

4276 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or
4277 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be
4278 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The
4279 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied
4280 and utilized as such.

4281 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
4282 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
4283 licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3)
4284 of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the
4285 consuming public about historic beer products. The privileges of this license shall be limited to the
4286 premises of the museum, regularly occupied and utilized as such.

4287 C. The Board may grant the following off-premises wine and beer licenses:

4288 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery
4289 store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina
4290 store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine

4291 and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-
4292 308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-
4293 premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine
4294 and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The
4295 licensee may also give samples of wine and beer in designated areas at events held by the licensee for the
4296 purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With
4297 the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or
4298 authorized representatives of such licensees may participate in such tastings, including the pouring of
4299 samples. The licensee shall comply with any food inventory and sales volume requirements established
4300 by Board regulation.

4301 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom
4302 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,
4303 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for
4304 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

4305 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed
4306 premises for off-premises consumption confectionery that contains five percent or less alcohol by volume.
4307 Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is
4308 sold.

4309 D. The Board may grant the following banquet, special event, and tasting licenses:

4310 1. Per-day event licenses.

4311 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations
4312 or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
4313 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or
4314 areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be
4315 authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises
4316 consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one
4317 such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day

4318 of each banquet or special event. For the purposes of this subdivision, when the location named in the
4319 original application for a license is outdoors, the application may also name an alternative location in the
4320 event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club
4321 holding a retail wine and beer license.

4322 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association
4323 in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-
4324 premises consumption in areas approved by the Board on the premises of the place designated in the
4325 license. A separate license shall be required for each day of each special event.

4326 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall
4327 authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members
4328 and their guests in areas approved by the Board on the club premises. A separate license shall be required
4329 for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar
4330 year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
4331 obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall
4332 be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

4333 d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages
4334 of the type specified in the license in designated areas at events held by the licensee. A tasting license
4335 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic
4336 beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting
4337 license shall be required for conduct authorized by § 4.1-201.1.

4338 2. Annual licenses.

4339 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable
4340 membership organizations that are exempt from state and federal taxation and in charge of banquets
4341 conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and
4342 beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
4343 or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.
4344 For the purposes of this subdivision, when the location named in the original application for a license is

4345 outdoors, the application may also name an alternative location in the event of inclement weather.
4346 However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer
4347 license.

4348 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical
4349 services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired
4350 alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests
4351 thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall
4352 not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use
4353 the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency
4354 station or both, regularly occupied as such and recognized by the governing body of the county, city, or
4355 town in which it is located. Under conditions as specified by Board regulation, such premises may be other
4356 than a volunteer fire or volunteer emergency medical services agency station, provided such other
4357 premises are occupied and under the control of the volunteer fire department or volunteer emergency
4358 medical services agency while the privileges of its license are being exercised.

4359 c. Local special events licenses to a locality, business improvement district, or nonprofit
4360 organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages
4361 within the area designated by the Board for the special event and (ii) any permanent retail on-premises
4362 licensee that is located within the area designated by the Board for the special event to sell alcoholic
4363 beverages within the permanent retail location for consumption in the area designated for the special event,
4364 including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon
4365 approval of such businesses. In determining the designated area for the special event, the Board shall
4366 consult with the locality. Local special events licensees shall be limited to 16 special events per year, and
4367 the duration of any special event shall not exceed three consecutive days. Such limitations on the number
4368 of special events that may be held shall not apply during the effective dates of any rule, regulation, or
4369 order that is issued by the Governor or State Health Commissioner to meet a public health emergency and
4370 that effectively reduces allowable restaurant seating capacity; however, local special events licensees shall
4371 be subject to all other applicable provisions of this ~~title~~ subtitle and Board regulations and shall provide

notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this ~~title~~ subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine

4399 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic
4400 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the
4401 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any
4402 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue
4403 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

4404 E. The Board may grant a marketplace license to persons operating a business enterprise of which
4405 the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve
4406 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations
4407 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or
4408 two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such
4409 customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace
4410 license, the applicant's business enterprise must (i) provide a single category of goods or services in a
4411 manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in
4412 such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic
4413 beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all
4414 employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to
4415 be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the
4416 Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average
4417 amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of
4418 time that the business has been in operation; and (d) any other requirements deemed necessary by the
4419 Board to protect the public health, safety, and welfare.

4420 F. The Board may grant the following shipper, bottler, and related licenses:

4421 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in §
4422 4.1-209.1.

4423 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside
4424 the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations,
4425 in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for

4426 off-premises consumption. Such licensee shall not be required to comply with the monthly food sale
4427 requirement established by Board regulations.

4428 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and
4429 shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board
4430 regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under
4431 the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons
4432 outside the Commonwealth for resale outside the Commonwealth.

4433 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with
4434 a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer
4435 owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner;
4436 and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board
4437 regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or
4438 not, or any person under common control of such licensee, shall acquire or hold any financial interest,
4439 direct or indirect, in the business for which any fulfillment warehouse license is issued.

4440 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized
4441 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of
4442 business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders
4443 for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer
4444 may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order
4445 for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment.
4446 Marketing portal licensees may also accept payment on behalf of the shipper.

4447 **§ 4.1-207. (Repealed effective July 1, 2021) Wine licenses.**

4448 The Board may grant the following licenses relating to wine:

4449 1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver
4450 or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell
4451 the wine so manufactured at wholesale for the purpose of resale, and to persons outside the
4452 Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the

4453 licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits
4454 from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the
4455 licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with
4456 Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit
4457 issued by the Board; and (iv) sell wine at retail on the premises described in the winery license for on-
4458 premises consumption or in closed containers for off-premises consumption, provided that such wine is
4459 manufactured on the licensed premises.

4460 2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize
4461 the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the
4462 wine from one or more premises identified in the license, in accordance with Board regulations, in closed
4463 containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the
4464 Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for
4465 sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for
4466 ports of call of a foreign country or another state.

4467 No wholesale wine licensee shall purchase wine for resale from a person outside the
4468 Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a
4469 wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's
4470 license.

4471 3. Wine importers' licenses, which shall authorize persons located within or outside the
4472 Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed
4473 containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale,
4474 and to persons outside the Commonwealth for resale outside the Commonwealth.

4475 4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize
4476 the licensee to sell wine at the place of business designated in the winery license, in closed containers, for
4477 off-premises consumption.

4478 5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21
4479 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board

4480 regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at
4481 wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee
4482 may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in
4483 accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose
4484 of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the
4485 premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses
4486 located on or off the licensed premises upon permits issued by the Board. For the purposes of this ~~title~~
4487 subtitle, a farm winery license shall be designated either as a Class A or Class B farm winery license in
4488 accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in
4489 accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking
4490 facility.

4491 Such licenses shall also authorize the licensee to sell wine at retail at the places of business
4492 designated in the licenses, which may include no more than five additional retail establishments of the
4493 licensee. Wine may be sold at these business places for on-premises consumption and in closed containers
4494 for off-premises consumption. In addition, wine may be pre-mixed by the licensee to be served and sold
4495 for on-premises consumption at these business places.

4496 6. Internet wine retailer license, which shall authorize persons located within or outside the
4497 Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed
4498 containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises
4499 consumption. Such licensee shall not be required to comply with the monthly food sale requirement
4500 established by Board regulations.

4501 **§ 4.1-207.1. (Repealed effective July 1, 2021) Restricted wholesale wine licenses.**

4502 The Board may grant a wholesale wine license to a nonprofit, nonstock corporation created in
4503 accordance with subdivision B 2 of § 3.2-102, which shall authorize the licensee to provide wholesale
4504 wine distribution services to winery and farm winery licensees, provided that no more than 3,000 cases of
4505 wine produced by a winery or farm winery licensee shall be distributed by the corporation in any one year.
4506 The corporation shall provide such distribution services in accordance with the terms of a written

4507 agreement approved by the corporation between it and the winery or farm winery licensee, which shall
4508 comply with the provisions of this ~~title~~ subtitle and Board regulations. The corporation shall receive all of
4509 the privileges of, and be subject to, all laws and regulations governing wholesale wine licenses granted
4510 under subdivision 2 of § 4.1-207.

4511 **§ 4.1-208. (Repealed effective July 1, 2021) Beer licenses.**

4512 A. The Board may grant the following licenses relating to beer:

4513 1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver
4514 or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons
4515 licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale
4516 within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a
4517 company under common control of such brewery, or upon property of such brewery or a parent, subsidiary
4518 or a company under common control of such brewery contiguous to such premises, or in a development
4519 contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company
4520 under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside
4521 the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that
4522 the brewery owns at premises described in the brewery license for on-premises consumption and in closed
4523 containers for off-premises consumption, provided that not less than 20 percent of the volume of beer sold
4524 for on-premises consumption in any calendar year is manufactured on the licensed premises.

4525 Such license may also authorize individuals holding a brewery license to (a) operate a facility
4526 designed for and utilized exclusively for the education of persons in the manufacture of beer, including
4527 sampling by such individuals of beer products, within a theme or amusement park located upon the
4528 premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a
4529 development contiguous to such premises owned and operated by such person or a wholly owned
4530 subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises,
4531 provided that such samples shall be provided only to individuals for consumption on the premises of such
4532 facility or licensed premises and only to individuals to whom such products may be lawfully sold.

4533 2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer
4534 per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned
4535 agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including
4536 barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the
4537 farm. The licensed premises shall be limited to the portion of the farm on which agricultural products,
4538 including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown
4539 and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any
4540 residence and the curtilage thereof. However, the Board may, with notice to the local governing body in
4541 accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part
4542 of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned
4543 as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery
4544 use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential
4545 conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition
4546 shall otherwise limit or affect local zoning authority.

4547 Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ subtitle except
4548 as otherwise provided in this subdivision.

4549 3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and
4550 shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board
4551 regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under
4552 the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons
4553 outside the Commonwealth for resale outside the Commonwealth.

4554 4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and
4555 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the
4556 license, in accordance with Board regulations, in closed containers to (i) persons licensed under this
4557 chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered
4558 under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii)
4559 persons outside the Commonwealth for resale outside the Commonwealth.

4560 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth
4561 who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's
4562 license and purchases beer for resale pursuant to the privileges of such beer importer's license.

4563 5. Beer importers' licenses, which shall authorize persons licensed within or outside the
4564 Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board
4565 regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for
4566 the purpose of resale.

4567 6. Retail on-premises beer licenses to:

4568 a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or
4569 without meals, only in dining areas and other designated areas of such restaurants, or in dining areas,
4570 private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such
4571 rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,
4572 whether or not contiguous to the licensed premises, which may have more than one means of ingress and
4573 egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control
4574 of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved
4575 for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

4576 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the
4577 licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated
4578 by them for on-premises consumption when carrying passengers.

4579 c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the
4580 licensee to sell beer, either with or without meals, on such boats operated by them for on-premises
4581 consumption when carrying passengers.

4582 d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or
4583 town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments.

4584 No license shall be granted unless it appears affirmatively that a substantial public demand for such
4585 licensed establishment exists and that public convenience and the purposes of this ~~title~~ subtitle will be
4586 promoted by granting the license.

4587 e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall
4588 authorize the licensee to sell beer, in paper, plastic, or similar disposable containers or in single original
4589 metal cans, during the performance of professional sporting exhibitions, events or performances
4590 immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession
4591 areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for
4592 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own
4593 lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

4594 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
4595 facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania,
4596 Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the
4597 performance of any event, in paper, plastic or similar disposable containers or in single original metal
4598 cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for
4599 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own
4600 lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

4601 g. Persons operating food concessions at exhibition or exposition halls, convention centers or
4602 similar facilities located in any county operating under the urban county executive form of government or
4603 any city which is completely surrounded by such county, which shall authorize the licensee to sell beer
4604 during the event, in paper, plastic or similar disposable containers or in single original metal cans, to
4605 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
4606 and such additional locations designated by the Board in such facilities, for on-premises consumption.
4607 Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
4608 beverages on the premises in all areas and locations covered by the license. For purposes of this subsection,
4609 "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade
4610 shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

4611 h. A nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code,
4612 located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer
4613 products, which shall authorize the licensee to sell beer for on-premises consumption in areas approved

4614 by the Board. The privileges of this license shall be limited to the premises of the museum, regularly
4615 occupied and utilized as such.

4616 7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed
4617 containers for off-premises consumption.

4618 8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize
4619 the licensee to sell beer at the place of business designated in the brewery license, in closed containers
4620 which shall include growlers and other reusable containers, for off-premises consumption.

4621 9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d,
4622 which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall
4623 authorize the licensee to sell beer in closed containers for off-premises consumption.

4624 10. Internet beer retailer license, which shall authorize persons located within or outside the
4625 Commonwealth to sell and ship beer, in accordance with § 4.1-209.1 and Board regulations, in closed
4626 containers to persons in the Commonwealth to whom beer may be lawfully sold for off-premises
4627 consumption. Such licensee shall not be required to comply with the monthly food sale requirement
4628 established by Board regulations.

4629 B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted
4630 by the Board in accordance with this ~~title~~ subtitle and (ii) is in compliance with the local zoning ordinance
4631 as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited
4632 brewery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the
4633 provisions of this section or (b) a subsequent change in ownership of the farm winery or limited brewery
4634 on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm
4635 winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand
4636 any existing building or structure and the uses thereof so long as specifically approved by the locality by
4637 special exception. Any such farm winery or limited brewery located on land zoned residential conservation
4638 prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the
4639 locality by special exception. All such licensees shall comply with the requirements of this ~~title~~ subtitle

4640 and Board regulations for renewal of such license or the issuance of a new license in the event of a change
4641 in ownership of the farm winery or limited brewery on or after July 1, 2016.

4642 **§ 4.1-212. (Effective until July 1, 2021) Permits required in certain instances.**

4643 A. The Board may grant the following permits which shall authorize:

4644 1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine
4645 and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

4646 2. Any person having any interest in the manufacture, distribution or sale of spirits or other
4647 alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected
4648 with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic
4649 beverages.

4650 3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any
4651 license to sell and which shall be used for culinary purposes only.

4652 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the
4653 Commonwealth, except that no permit shall be required for any person shipping or transporting into the
4654 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of
4655 residence to the Commonwealth in accordance with § 4.1-310.

4656 5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling
4657 alcohol.

4658 6. The release of alcoholic beverages not under United States custom bonds or internal revenue
4659 bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive
4660 them within or outside of the Commonwealth.

4661 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery
4662 to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

4663 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for
4664 delivery in accordance with subsection C of § 4.1-132.

4665 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary
4666 appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued

4667 to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems
4668 appropriate.

4669 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which
4670 may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien
4671 or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff,
4672 personal representative, receiver or other officer acting under authority of a court having jurisdiction in
4673 the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia
4674 Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit
4675 to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale
4676 outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

4677 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the
4678 premises or property of a person licensed by the Board and who has become lawfully entitled to the
4679 possession of the licensed premises to continue to operate the establishment to the same extent as a person
4680 holding such licenses for a period not to exceed 60 days or for such longer period as determined by the
4681 Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous
4682 owner to the extent determined by the Board. Such temporary permit may be issued in advance,
4683 conditioned on the above requirements.

4684 12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail
4685 for off-premises consumption.

4686 13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal
4687 revenue bond in warehouses located in the Commonwealth.

4688 14. The storage of wine by a licensed winery or farm winery under internal revenue bond in
4689 warehouses located in the Commonwealth.

4690 15. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has
4691 filed an application for a permit in which the applicant represents (i) that he or she is under contract to
4692 conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the
4693 application; (ii) that such contract grants to the applicant the authority to act as the authorized

4694 representative of such manufacturer or wholesaler; and (iii) that such contract contains an
4695 acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any
4696 violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall
4697 be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-
4698 229.

4699 16. Any person who, through contract, lease, concession, license, management or similar
4700 agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the
4701 premises of a person licensed by the Board to continue to operate the establishment to the same extent as
4702 a person holding such licenses, provided such person has made application to the Board for a license at
4703 the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner
4704 to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period
4705 as may be necessary as determined by the Board pending the completion of the processing of the
4706 permittee's license application. No permit shall be issued without the written consent of the previous
4707 licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes
4708 any state or local taxes, or has any pending charges for violation of this ~~title~~ subtitle or any Board
4709 regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any
4710 penalty for the pending charges. An application for a permit may be filed prior to the effective date of the
4711 contract, in which case the permit when issued shall become effective on the effective date of the contract.
4712 Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the
4713 provisions of this ~~title~~ subtitle and any Board regulation and (b) the previous licensee shall not be held
4714 liable for any violation of this ~~title~~ subtitle or any Board regulation committed by, or any errors or
4715 omissions of, the permittee.

4716 17. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting
4717 individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and
4718 authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole
4719 purpose of remitting such fees to the licensee.

4720 18. Any tour company guiding individuals for compensation on a walking tour to one or more
4721 establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one
4722 fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a
4723 fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company
4724 shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the
4725 tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide
4726 and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration
4727 of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

4728 B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a
4729 subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the
4730 wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-
4731 216.

4732 **§ 4.1-212. (Effective July 1, 2021) Permits required in certain instances.**

4733 A. The Board may grant the following permits which shall authorize:

4734 1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine
4735 and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

4736 2. Any person having any interest in the manufacture, distribution or sale of spirits or other
4737 alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected
4738 with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic
4739 beverages.

4740 3. Any person to keep upon his premises alcoholic beverages that he is not authorized by any
4741 license to sell and which shall be used for culinary purposes only.

4742 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the
4743 Commonwealth, except that no permit shall be required for any person shipping or transporting into the
4744 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of
4745 residence to the Commonwealth in accordance with § 4.1-310.

- 4746 5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling
4747 alcohol.
- 4748 6. The release of alcoholic beverages not under United States custom bonds or internal revenue
4749 bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive
4750 them within or outside of the Commonwealth.
- 4751 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery
4752 to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.
- 4753 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for
4754 delivery in accordance with subsection C of § 4.1-132.
- 4755 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary
4756 appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued
4757 to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems
4758 appropriate.
- 4759 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which
4760 may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien
4761 or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff,
4762 personal representative, receiver or other officer acting under authority of a court having jurisdiction in
4763 the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia
4764 Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit
4765 to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale
4766 outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.
- 4767 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the
4768 premises or property of a person licensed by the Board and who has become lawfully entitled to the
4769 possession of the licensed premises to continue to operate the establishment to the same extent as a person
4770 holding such licenses for a period not to exceed 60 days or for such longer period as determined by the
4771 Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous

owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

13. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

14. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-229.

15. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation of this ~~title~~ subtitle or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the

4799 contract, in which case the permit when issued shall become effective on the effective date of the contract.
4800 Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the
4801 provisions of this ~~title~~ subtitle and any Board regulation and (b) the previous licensee shall not be held
4802 liable for any violation of this ~~title~~ subtitle or any Board regulation committed by, or any errors or
4803 omissions of, the permittee.

4804 16. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting
4805 individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and
4806 authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole
4807 purpose of remitting such fees to the licensee.

4808 17. Any tour company guiding individuals for compensation on a walking tour to one or more
4809 establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one
4810 fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a
4811 fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company
4812 shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the
4813 tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide
4814 and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration
4815 of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

4816 B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a
4817 subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the
4818 wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-
4819 216.

4820 **§ 4.1-213. Manufacture and sale of cider.**

4821 A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board,
4822 (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.

4823 B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver
4824 and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee,

4825 (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the
4826 Commonwealth for resale outside the Commonwealth.

4827 C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner
4828 and to the same persons, and subject to the same limitations and conditions, as such license authorizes
4829 him to sell other alcoholic beverages.

4830 D. Cider containing less than seven percent of alcohol by volume may be sold in any containers
4831 that comply with federal regulations for wine or beer, provided such containers are labeled in accordance
4832 with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any
4833 containers that comply with federal regulations for wine, provided such containers are labeled in
4834 accordance with Board regulations.

4835 E. No additional license fees shall be charged for the privilege of handling cider.

4836 F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold,
4837 or both, in the Commonwealth.

4838 G. The Board shall adopt regulations relating to the manufacture, possession, transportation and
4839 sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale
4840 of cider and to ensure that the markup required to be paid will be collected.

4841 H. For the purposes of this section:

4842 "Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must
4843 before or during fermentation.

4844 "Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural
4845 sugar content of apples or pears (i) containing not more than 10 percent of alcohol by volume without
4846 chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of
4847 chaptalization. Cider shall be treated as wine for all purposes of this ~~title~~ subtitle, except as otherwise
4848 provided in this ~~title~~ subtitle or Board regulations.

4849 I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any
4850 person be denied the privilege of manufacturing and selling sweet cider.

4851 **§ 4.1-215. (Effective until July 1, 2021) Limitation on manufacturers, bottlers and**
4852 **wholesalers; exemptions.**

4853 A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages
4854 shall be granted to any (i) manufacturer, bottler or wholesaler of alcoholic beverages, whether licensed in
4855 the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler or wholesaler; (iii)
4856 partnership or corporation, where any partner or stockholder is an officer or director of any such
4857 manufacturer, bottler or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or
4858 has interest in another subsidiary corporation which is a manufacturer, bottler or wholesaler of alcoholic
4859 beverages; or (v) manufacturer, bottler or wholesaler of alcoholic beverages who has a financial interest
4860 in a corporation which has a retail license as a result of a holding company, which owns or has an interest
4861 in such manufacturer, bottler or wholesaler of alcoholic beverages. Nor shall such licenses be granted in
4862 any instances where such manufacturer, bottler or wholesaler and such retailer are under common control,
4863 by stock ownership or otherwise.

4864 2. Notwithstanding any other provision of this ~~title~~ subtitle:

4865 a. A manufacturer of malt beverages, whether licensed in the Commonwealth or not, may obtain
4866 a banquet license as provided in § 4.1-209 upon application to the Board, provided that the event for which
4867 a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of
4868 featuring and educating the consuming public about malt beverage products. Such manufacturer shall be
4869 limited to eight banquet licenses for such events per year without regard to the number of breweries owned
4870 or operated by such manufacturer or by any parent, subsidiary, or company under common control with
4871 such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need
4872 only obtain one such license for the event; or

4873 b. A manufacturer of wine, whether licensed in the Commonwealth or not, may obtain a banquet
4874 license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet
4875 license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring
4876 and educating the consuming public about wine products. Such manufacturer shall be limited to eight
4877 banquet licenses for such events per year without regard to the number of wineries owned or operated by

4878 such manufacturer or by any parent, subsidiary, or company under common control with such
4879 manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only
4880 obtain one such license for the event.

4881 3. Notwithstanding any other provision of this ~~title~~ subtitle, a manufacturer of distilled spirits,
4882 whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided
4883 in subdivision A 4 of § 4.1-210 upon application to the Board, provided that such event is (i) at a place
4884 approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming
4885 public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight
4886 banquet licenses for such special events per year. Where the event occurs on no more than three
4887 consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license
4888 shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic
4889 beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample
4890 shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case
4891 a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces
4892 of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer
4893 from serving such samples as part of a mixed beverage.

4894 B. This section shall not apply to:

- 4895 1. Corporations operating dining cars, buffet cars, club cars or boats;
4896 2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of §
4897 4.1-201;
4898 3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207;
4899 4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise
4900 furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license
4901 or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person
4902 to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers or
4903 wholesalers;

4904 5. Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-209.1 or 4.1-
4905 212.1; or

4906 6. One out-of-state winery, not under common control or ownership with any other winery, that is
4907 under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long
4908 as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the
4909 restaurant before it is offered for sale to consumers.

4910 C. The General Assembly finds that it is necessary and proper to require a separation between
4911 manufacturing interests, wholesale interests and retail interests in the production and distribution of
4912 alcoholic beverages in order to prevent suppliers from dominating local markets through vertical
4913 integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing
4914 techniques. The exceptions established by this section to the general prohibition against tied interests shall
4915 be limited to their express terms so as not to undermine the general prohibition and shall therefore be
4916 construed accordingly.

4917 **§ 4.1-215. (Effective July 1, 2021) Limitation on manufacturers, bottlers, and wholesalers;**
4918 **exemptions.**

4919 A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages
4920 shall be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed
4921 in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler; (iii)
4922 partnership or corporation, where any partner or stockholder is an officer or director of any such
4923 manufacturer, bottler, or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns
4924 or has interest in another subsidiary corporation which is a manufacturer, bottler, or wholesaler of
4925 alcoholic beverages; or (v) manufacturer, bottler, or wholesaler of alcoholic beverages who has a financial
4926 interest in a corporation which has a retail license as a result of a holding company, which owns or has an
4927 interest in such manufacturer, bottler, or wholesaler of alcoholic beverages. Nor shall such licenses be
4928 granted in any instances where such manufacturer, bottler, or wholesaler and such retailer are under
4929 common control, by stock ownership or otherwise.

4930 2. Notwithstanding any other provision of this ~~title~~ subtitle, a manufacturer of wine or malt
4931 beverages, or two or more of such manufacturers together, whether licensed in the Commonwealth or not,
4932 may obtain a banquet license as provided in § 4.1-206.3 upon application to the Board, provided that the
4933 event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for
4934 the purposes of featuring and educating the consuming public about wine or malt beverage products. Such
4935 manufacturer shall be limited to eight banquet licenses, whether or not jointly obtained, for such events
4936 per year without regard to the number of wineries or breweries owned or operated by such manufacturer
4937 or by any parent, subsidiary, or company under common control with such manufacturer. Where the event
4938 occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the
4939 event.

4940 3. Notwithstanding any other provision of this ~~title~~ subtitle, a manufacturer of distilled spirits,
4941 whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided
4942 in subdivision D 1 b of § 4.1-206.3 upon application to the Board, provided that such event is (i) at a place
4943 approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming
4944 public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight
4945 banquet licenses for such special events per year. Where the event occurs on no more than three
4946 consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license
4947 shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic
4948 beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample
4949 shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case
4950 a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces
4951 of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer
4952 from serving such samples as part of a mixed beverage.

4953 B. This section shall not apply to:

4954 1. Corporations operating dining cars, buffet cars, club cars, or boats;

4955 2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of §
4956 4.1-201;

4957 3. Farm winery licensees engaging in conduct authorized by subdivision 6 of § 4.1-206.1;
4958 4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise
4959 furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license
4960 or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person
4961 to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, or
4962 wholesalers;

4963 5. Wineries, farm wineries, or breweries engaging in conduct authorized by subsection F of § 4.1-
4964 206.3 or § 4.1-209.1 or 4.1-212.1; or

4965 6. One out-of-state winery, not under common control or ownership with any other winery, that is
4966 under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long
4967 as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the
4968 restaurant before it is offered for sale to consumers.

4969 C. The General Assembly finds that it is necessary and proper to require a separation between
4970 manufacturing interests, wholesale interests, and retail interests in the production and distribution of
4971 alcoholic beverages in order to prevent suppliers from dominating local markets through vertical
4972 integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing
4973 techniques. The exceptions established by this section to the general prohibition against tied interests shall
4974 be limited to their express terms so as not to undermine the general prohibition and shall therefore be
4975 construed accordingly.

4976 **§ 4.1-216. (Effective until July 1, 2021) Further limitations on manufacturers, bottlers,**
4977 **importers, brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade**
4978 **practices.**

4979 A. As used in this section:

4980 "Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who
4981 regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for
4982 resale and arranges for or consummates such transactions with persons in the Commonwealth to whom

4983 such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the
4984 provisions of this ~~title~~ subtitle.

4985 "Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any
4986 officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

4987 B. Except as provided in this ~~title~~ subtitle, no manufacturer, importer, bottler, broker or wholesaler
4988 of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial
4989 interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises
4990 where the business of a retail licensee is conducted.

4991 1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or
4992 wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other
4993 merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude
4994 from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or
4995 wholesalers.

4996 2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares
4997 of stock of which are sold to the general public on any national or local stock exchange, shall not be
4998 deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

4999 3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a
5000 financing corporation, may participate in financing the business of a wholesale licensee in the
5001 Commonwealth by providing debt or equity capital or both but only if done in accordance with the
5002 provisions of this subsection.

5003 a. In order to assist a proposed new owner of an existing wholesale licensee, a financing
5004 corporation may provide debt or equity capital, or both, if prior approval of the Board has been obtained
5005 pursuant to subdivision 3 b of subsection B. A financing corporation which proposes to provide equity
5006 capital shall cause the proposed new owner to form a Virginia limited partnership in which the new owner
5007 is the general partner and the financing corporation is a limited partner. If the general partner defaults on
5008 any financial obligation to the limited partner, which default has been specifically defined in the
5009 partnership agreement, or, if the new owner defaults on its obligation to pay principal and interest when

5010 due to the financing corporation as specifically defined in the loan documents, then, and only then, shall
5011 such financing corporation be allowed to take title to the business of the wholesale licensee.
5012 Notwithstanding any other law to the contrary and provided written notice has been given to the Board
5013 within two business days after taking title, the wholesale licensee may be managed and operated by such
5014 financing corporation pursuant to the existing wholesale license for a period of time not to exceed 180
5015 days as if the license had been issued in the name of the financing corporation. On or before the expiration
5016 of such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's
5017 business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed
5018 terminated. The financing corporation may not participate in financing the transfer of ownership to the
5019 new owner or to any other subsequent owner for a period of twenty years following the effective date of
5020 the original financing transaction; except where a transfer takes place before the expiration of the eighth
5021 full year following the effective date of the original financing transaction in which case the financing
5022 corporation may finance such transfer as long as the new owner is required to return such debt or equity
5023 capital within the originally prescribed eight-year period. The financing corporation may exercise its right
5024 to take title to, manage and operate the business of, the wholesale licensee only once during such eight-
5025 year period.

5026 b. In any case in which a financing corporation proposes to provide debt or equity capital in order
5027 to assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall
5028 first submit an application for a wholesale license in the name of the proposed new owner to the Board.

5029 The Board shall be provided with all documents that pertain to the transaction at the time of the
5030 license application and shall ensure that the application complies with all requirements of law pertaining
5031 to the issuance of wholesale licenses except that if the financing corporation proposes to provide equity
5032 capital and thereby take a limited partnership interest in the applicant entity, the financing corporation
5033 shall not be required to comply with any Virginia residency requirement applicable to the issuance of
5034 wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and provide
5035 supporting documentation that the following requirements are met prior to issuance of the wholesale
5036 license: (i) the terms and conditions of any debt financing which the financing corporation proposes to

5037 provide are substantially the same as those available in the financial markets to other wholesale licensees
5038 who will be in competition with the applicant, (ii) the terms of any proposed equity financing transaction
5039 are such that future profits of the applicant's business shall be distributed annually to the financing
5040 corporation in direct proportion to its percentage of ownership interest received in return for its investment
5041 of equity capital, (iii) if the financing corporation proposes to provide equity capital, it shall hold an
5042 ownership interest in the applicant entity through a limited partnership interest and no other arrangement
5043 and (iv) the applicant entity shall be contractually obligated to return such debt or equity capital to the
5044 financing corporation not later than the end of the eighth full year following the effective date of the
5045 transaction thereby terminating any ownership interest or right thereto of the financing corporation.

5046 Once the Board has issued a wholesale license pursuant to an application filed in accordance with
5047 this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall
5048 be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board may
5049 require the licensee to resubmit certifications and documentation.

5050 c. If a financing corporation wishes to provide debt financing, including inventory financing, but
5051 not equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale
5052 licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under
5053 the following circumstances and subject to the following conditions: (i) in order to secure such debt
5054 financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in any of
5055 its assets, including inventory, other than the wholesale license itself or corporate stock of the wholesale
5056 licensee; in the event of default, the financing corporation may take title to any assets pledged to secure
5057 such debt but may not take title to the business of the wholesale licensee and may not manage or operate
5058 such business; (ii) debt capital may be supplied by such financing corporation to an existing wholesale
5059 licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is provided on
5060 terms and conditions which are substantially the same as those available in the financial markets to other
5061 wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the
5062 licensee or proposed new owner shall certify to the Board and provide supporting documentation that the
5063 requirements of (i) and (ii) of this subdivision 3 c have been met.

5064 Nothing in this section shall eliminate, affect or in any way modify the requirements of law
5065 pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale
5066 licensees or new owners thereof which have received debt financing prior to the enactment of this
5067 subdivision 3 c.

5068 4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery
5069 licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery
5070 or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the
5071 provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-
5072 day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may
5073 make sales of alcoholic beverages directly to retail licensees for a period not to exceed thirty days in the
5074 event that such retail licensees are normally serviced by a wholesale licensee representing that brewery
5075 which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God
5076 or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the
5077 benefit of creditors not in the ordinary course of business.

5078 5. Notwithstanding any provision of this section, including but not limited to those provisions
5079 whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer,
5080 broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement,
5081 with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part
5082 from the premises on which the retail licensee's business is conducted.

5083 6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a
5084 royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i)
5085 authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on
5086 authentic historical recipes and identified with brand names owned and trademarked by the historical
5087 preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits
5088 manufactured using such recipes and trademarks, rather than on the sales revenues generated from such
5089 wine, beer, or spirits; and (iii) has been approved by the Board.

5090 For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt
5091 from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes
5092 include the preservation, restoration, and protection of a historic community in the Commonwealth that is
5093 the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth
5094 century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail
5095 licenses have been issued by the Board.

5096 C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer,
5097 bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or
5098 not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which
5099 the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property,
5100 services or anything of value with which the business of such retail licensee is or may be conducted, or
5101 for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no
5102 transaction permitted under this section or by Board regulation shall be used to require the retail licensee
5103 to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or
5104 wholesalers.

5105 The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and
5106 wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling
5107 alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within
5108 these limits owned by or ceded to the United States of America.

5109 **§ 4.1-216. (Effective July 1, 2021) Further limitations on manufacturers, bottlers, importers,**
5110 **brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.**

5111 A. As used in this section:

5112 "Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who
5113 regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for
5114 resale and arranges for or consummates such transactions with persons in the Commonwealth to whom
5115 such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the
5116 provisions of this ~~title~~ subtitle.

5117 "Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any
5118 officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

5119 B. Except as provided in this ~~title~~ subtitle, no manufacturer, importer, bottler, broker or wholesaler
5120 of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial
5121 interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises
5122 where the business of a retail licensee is conducted.

5123 1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or
5124 wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other
5125 merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude
5126 from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or
5127 wholesalers.

5128 2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares
5129 of stock of which are sold to the general public on any national or local stock exchange, shall not be
5130 deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

5131 3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a
5132 financing corporation, may participate in financing the business of a wholesale licensee in the
5133 Commonwealth by providing debt or equity capital or both but only if done in accordance with the
5134 provisions of this subsection.

5135 a. In order to assist a proposed new owner of an existing wholesale licensee, a financing
5136 corporation may provide debt or equity capital, or both, if prior approval of the Board has been obtained
5137 pursuant to subdivision 3 b of subsection B. A financing corporation which proposes to provide equity
5138 capital shall cause the proposed new owner to form a Virginia limited partnership in which the new owner
5139 is the general partner and the financing corporation is a limited partner. If the general partner defaults on
5140 any financial obligation to the limited partner, which default has been specifically defined in the
5141 partnership agreement, or, if the new owner defaults on its obligation to pay principal and interest when
5142 due to the financing corporation as specifically defined in the loan documents, then, and only then, shall
5143 such financing corporation be allowed to take title to the business of the wholesale licensee.

5144 Notwithstanding any other law to the contrary and provided written notice has been given to the Board
5145 within two business days after taking title, the wholesale licensee may be managed and operated by such
5146 financing corporation pursuant to the existing wholesale license for a period of time not to exceed 180
5147 days as if the license had been issued in the name of the financing corporation. On or before the expiration
5148 of such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's
5149 business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed
5150 terminated. The financing corporation may not participate in financing the transfer of ownership to the
5151 new owner or to any other subsequent owner for a period of twenty years following the effective date of
5152 the original financing transaction; except where a transfer takes place before the expiration of the eighth
5153 full year following the effective date of the original financing transaction in which case the financing
5154 corporation may finance such transfer as long as the new owner is required to return such debt or equity
5155 capital within the originally prescribed eight-year period. The financing corporation may exercise its right
5156 to take title to, manage and operate the business of, the wholesale licensee only once during such eight-
5157 year period.

5158 b. In any case in which a financing corporation proposes to provide debt or equity capital in order
5159 to assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall
5160 first submit an application for a wholesale license in the name of the proposed new owner to the Board.

5161 The Board shall be provided with all documents that pertain to the transaction at the time of the
5162 license application and shall ensure that the application complies with all requirements of law pertaining
5163 to the issuance of wholesale licenses except that if the financing corporation proposes to provide equity
5164 capital and thereby take a limited partnership interest in the applicant entity, the financing corporation
5165 shall not be required to comply with any Virginia residency requirement applicable to the issuance of
5166 wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and provide
5167 supporting documentation that the following requirements are met prior to issuance of the wholesale
5168 license: (i) the terms and conditions of any debt financing which the financing corporation proposes to
5169 provide are substantially the same as those available in the financial markets to other wholesale licensees
5170 who will be in competition with the applicant, (ii) the terms of any proposed equity financing transaction

5171 are such that future profits of the applicant's business shall be distributed annually to the financing
5172 corporation in direct proportion to its percentage of ownership interest received in return for its investment
5173 of equity capital, (iii) if the financing corporation proposes to provide equity capital, it shall hold an
5174 ownership interest in the applicant entity through a limited partnership interest and no other arrangement
5175 and (iv) the applicant entity shall be contractually obligated to return such debt or equity capital to the
5176 financing corporation not later than the end of the eighth full year following the effective date of the
5177 transaction thereby terminating any ownership interest or right thereto of the financing corporation.

5178 Once the Board has issued a wholesale license pursuant to an application filed in accordance with
5179 this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall
5180 be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board may
5181 require the licensee to resubmit certifications and documentation.

5182 c. If a financing corporation wishes to provide debt financing, including inventory financing, but
5183 not equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale
5184 licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under
5185 the following circumstances and subject to the following conditions: (i) in order to secure such debt
5186 financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in any of
5187 its assets, including inventory, other than the wholesale license itself or corporate stock of the wholesale
5188 licensee; in the event of default, the financing corporation may take title to any assets pledged to secure
5189 such debt but may not take title to the business of the wholesale licensee and may not manage or operate
5190 such business; (ii) debt capital may be supplied by such financing corporation to an existing wholesale
5191 licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is provided on
5192 terms and conditions which are substantially the same as those available in the financial markets to other
5193 wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the
5194 licensee or proposed new owner shall certify to the Board and provide supporting documentation that the
5195 requirements of (i) and (ii) of this subdivision 3 c have been met.

5196 Nothing in this section shall eliminate, affect or in any way modify the requirements of law
5197 pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale

5198 licensees or new owners thereof which have received debt financing prior to the enactment of this
5199 subdivision 3 c.

5200 4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery
5201 licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery
5202 or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the
5203 provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-
5204 day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may
5205 make sales of alcoholic beverages directly to retail licensees for a period not to exceed thirty days in the
5206 event that such retail licensees are normally serviced by a wholesale licensee representing that brewery
5207 which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God
5208 or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the
5209 benefit of creditors not in the ordinary course of business.

5210 5. Notwithstanding any provision of this section, including but not limited to those provisions
5211 whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer,
5212 broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement,
5213 with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part
5214 from the premises on which the retail licensee's business is conducted.

5215 6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a
5216 royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i)
5217 authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on
5218 authentic historical recipes and identified with brand names owned and trademarked by the historical
5219 preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits
5220 manufactured using such recipes and trademarks, rather than on the sales revenues generated from such
5221 wine, beer, or spirits; and (iii) has been approved by the Board.

5222 For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt
5223 from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes
5224 include the preservation, restoration, and protection of a historic community in the Commonwealth that is

5225 the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth
5226 century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail
5227 licenses have been issued by the Board.

5228 C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer,
5229 bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or
5230 not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which
5231 the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property,
5232 services or anything of value with which the business of such retail licensee is or may be conducted, or
5233 for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no
5234 transaction permitted under this section or by Board regulation shall be used to require the retail licensee
5235 to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or
5236 wholesalers.

5237 The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and
5238 wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling
5239 alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within
5240 these limits owned by or ceded to the United States of America.

5241 The provisions of this subsection shall not apply to any commercial lifestyle center licensee.

5242 **§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil**
5243 **penalties.**

5244 A. As used in this section:

5245 "Alcoholic beverage advertising material" or "advertising material" means any item, other than an
5246 illuminated device, which contains one or more references to a brand of alcoholic beverage and which is
5247 used to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and
5248 which otherwise complies with Board regulations.

5249 "Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee,
5250 that a manufacturer has authorized to engage in a business consisting in whole or in part of the sale and

5251 distribution of any articles of tangible personal property bearing any of the manufacturer's alcoholic
5252 beverage trademarks.

5253 "Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person
5254 that a brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale
5255 wine and beer licensees in Virginia or, in the case of spirits, to the Board.

5256 B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted
5257 thereunder, a manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy
5258 for, or give to a retail licensee any alcoholic beverage advertising material made of paper, cardboard,
5259 canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less
5260 per item.

5261 C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be
5262 given to a retailer, may be displayed by a retail licensee in the interior of its licensed establishment
5263 provided:

- 5264 1. The wholesale value of the advertising material does not exceed \$250 per item, and
5265 2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any
5266 wholesale wine or beer licensee.

5267 A retail licensee shall retain for at least two years a record of its procurement of, including any
5268 payments for, such advertising materials along with an invoice or sales ticket containing a description of
5269 the item so purchased or otherwise procured.

5270 D. Except as otherwise provided in this ~~title~~ subtitle, a retail licensee shall not display in the interior
5271 of its licensed establishment any alcoholic beverage advertising materials, other than those that may be
5272 lawfully obtained and displayed in accordance with this section or Board regulation.

5273 E. Nothing in this section shall be construed to prohibit any advertising materials permitted under
5274 Board regulations in effect on January 1, 2007.

5275 **§ 4.1-222. Conditions under which Board may refuse to grant licenses.**

5276 The Board may refuse to grant any license if it has reasonable cause to believe that:

- 5277 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant
5278 is an association, any member thereof, or limited partner of 10 percent or more with voting rights, or if
5279 the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
5280 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10
5281 percent or more of the membership interest of the limited liability company:
- 5282 a. Is not 21 years of age or older;
- 5283 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude
5284 under the laws of any state, or of the United States;
- 5285 c. Has been convicted, within the five years immediately preceding the date of the application for
5286 such license, of a violation of any law applicable to the manufacture, transportation, possession, use or
5287 sale of alcoholic beverages;
- 5288 d. Is not a person of good moral character and repute;
- 5289 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have
5290 ownership interests in the business which have not been disclosed;
- 5291 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
5292 proposed to be licensed;
- 5293 g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;
- 5294 h. Has demonstrated, either by his police record or by his record as a former licensee of the Board,
5295 a lack of respect for law and order;
- 5296 i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory
5297 manner;
- 5298 j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;
- 5299 k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of
5300 narcotics;
- 5301 l. Has misrepresented a material fact in applying to the Board for a license;
- 5302 m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or
5303 governmental agency or authority, by making or filing any report, document or tax return required by

5304 statute or regulation which is fraudulent or contains a false representation of a material fact; or has
5305 willfully deceived or attempted to deceive the Board, or any federal, state or local government, or
5306 governmental agency or authority, by making or maintaining business records required by statute or
5307 regulation which are false and fraudulent;

5308 n. Is violating or allowing the violation of any provision of this ~~title~~ subtitle in his establishment
5309 at the time his application for a license is pending;

5310 o. Is a police officer with police authority in the political subdivision within which the
5311 establishment designated in the application is located;

5312 p. Is physically unable to carry on the business for which the application for a license is filed or
5313 has been adjudicated incapacitated; or

5314 q. Is a member, agent or employee of the Board.

5315 2. The place to be occupied by the applicant:

5316 a. Does not conform to the requirements of the governing body of the county, city or town in which
5317 such place is located with respect to sanitation, health, construction or equipment, or to any similar
5318 requirements established by the laws of the Commonwealth or by Board regulation;

5319 b. Is so located that granting a license and operation thereunder by the applicant would result in
5320 violations of this ~~title~~ subtitle, Board regulations, or violation of the laws of the Commonwealth or local
5321 ordinances relating to peace and good order;

5322 c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school
5323 or an institution of higher education; public or private playground or other similar recreational facility; or
5324 any state, local, or federal government-operated facility, that the operation of such place under such license
5325 will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or
5326 institutions;

5327 d. Is so located with respect to any residence or residential area that the operation of such place
5328 under such license will adversely affect real property values or substantially interfere with the usual
5329 quietude and tranquility of such residence or residential area; or

5330 e. Under a retail on-premises license is so constructed, arranged or illuminated that law-
5331 enforcement officers and special agents of the Board are prevented from ready access to and reasonable
5332 observation of any room or area within which alcoholic beverages are to be sold or consumed.

5333 3. The number of licenses existent in the locality is such that the granting of a license is detrimental
5334 to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider
5335 the (i) character of, population of, the number of similar licenses and the number of all licenses existent
5336 in the particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new
5337 license may have on such county, city, town or neighborhood in conforming with the purposes of this ~~title~~
5338 subtitle; and (iii) objections, if any, which may have been filed by a local governing body or local
5339 residents.

5340 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any
5341 political subdivision thereof, which warrants refusal by the Board to grant any license.

5342 5. The Board is not authorized under this chapter to grant such license.

5343 **§ 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
5344 **exceptions.**

5345 A. The action of the Board in granting or in refusing to grant any license shall be subject to review
5346 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsections
5347 B and C. Review shall be limited to the evidential record of the proceedings provided by the Board. Both
5348 the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the
5349 court.

5350 B. The Board may refuse a hearing on any application for the granting of any retail alcoholic
5351 beverage or mixed beverage license, including a banquet license, provided such:

5352 1. License for the applicant has been refused or revoked within a period of twelve months;
5353 2. License for any premises has been refused or revoked at that location within a period of twelve
5354 months;

5355 3. Applicant, within a period of twelve months immediately preceding, has permitted a license
5356 granted by the Board to expire for nonpayment of license tax, and at the time of expiration of such license,

5357 there was a pending and unadjudicated charge, either before the Board or in any court, against the licensee
5358 alleging a violation of this ~~title~~ subtitle; or

5359 4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the
5360 same location within twelve months of the date of the issuance of the restricted license.

5361 C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time
5362 of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
5363 the Board may refuse a hearing on an application for a new license until after the date on which the
5364 suspension period would have been executed had the license not have been permitted to expire.

5365 **§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

5366 The Board may suspend or revoke any license other than a brewery license, in which case the
5367 Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

5368 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
5369 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
5370 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
5371 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10
5372 percent or more of the membership interest of the limited liability company:

5373 a. Has misrepresented a material fact in applying to the Board for such license;

5374 b. Within the five years immediately preceding the date of the hearing held in accordance with §
5375 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth,
5376 of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the
5377 manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of
5378 Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or
5379 the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with
5380 any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or
5381 restrictions of the license granted by the Board;

5382 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
5383 under the laws of any state, or of the United States;

- 5384 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
5385 other persons have ownership interests in the business which have not been disclosed;
- 5386 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
5387 conducted under the license granted by the Board;
- 5388 f. Has been intoxicated or under the influence of some self-administered drug while upon the
5389 licensed premises;
- 5390 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
5391 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or
5392 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
- 5393 h. Knowingly employs in the business conducted under such license, as agent, servant, or
5394 employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any
5395 court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the
5396 Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation,
5397 possession, use or sale of alcoholic beverages;
- 5398 i. Subsequent to the granting of his original license, has demonstrated by his police record a lack
5399 of respect for law and order;
- 5400 j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person
5401 whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated,
5402 or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such
5403 licensed premises;
- 5404 k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except
5405 as provided under this ~~title~~ subtitle;
- 5406 l. Is physically unable to carry on the business conducted under such license or has been
5407 adjudicated incapacitated;
- 5408 m. Has allowed any obscene literature, pictures or materials upon the licensed premises;
- 5409 n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;

5410 o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has
5411 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use
5412 marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled
5413 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)
5414 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
5415 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
5416 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision shall also apply to any
5417 conduct related to the operation of the licensed business that facilitates the commission of any of the
5418 offenses set forth herein;

5419 p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
5420 immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion
5421 of public property immediately adjacent to the licensed premises from becoming a place where patrons of
5422 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§
5423 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et
5424 seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.)
5425 of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title
5426 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2
5427 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing
5428 threat to the public safety; or

5429 q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
5430 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
5431 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
5432 of public property immediately adjacent to the licensed premises.

5433 2. The place occupied by the licensee:

5434 a. Does not conform to the requirements of the governing body of the county, city or town in which
5435 such establishment is located, with respect to sanitation, health, construction or equipment, or to any
5436 similar requirements established by the laws of the Commonwealth or by Board regulations;

5437 b. Has been adjudicated a common nuisance under the provisions of this ~~title~~ subtitle or § 18.2-
5438 258; or

5439 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,
5440 drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs
5441 are regularly used or distributed. The Board may consider the general reputation in the community of such
5442 establishment in addition to any other competent evidence in making such determination.

5443 3. The licensee or any employee of the licensee discriminated against any member of the armed
5444 forces of the United States by prices charged or otherwise.

5445 4. The licensee, his employees, or any entertainer performing on the licensed premises has been
5446 convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises
5447 and the licensee allowed such conduct to occur.

5448 5. Any cause exists for which the Board would have been entitled to refuse to grant such license
5449 had the facts been known.

5450 6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
5451 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
5452 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
5453 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction
5454 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
5455 plan approved by the same locality to settle the outstanding liability.

5456 7. Any other cause authorized by this ~~title~~ subtitle.

5457 **§ 4.1-227. (Effective until July 1, 2021) Suspension or revocation of licenses; notice and**
5458 **hearings; imposition of penalties.**

5459 A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery
5460 licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall
5461 be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act
5462 (§ 2.2-4000 et seq.).

5463 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
5464 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
5465 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
5466 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
5467 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
5468 chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
5469 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
5470 upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against
5471 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
5472 of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought
5473 within ten working days, notwithstanding anything to the contrary in § 4.1-103.

5474 If the Board fails to provide for inspection or copying under this section for the licensee after a
5475 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
5476 have lawfully been entitled to inspect or copy under this section.

5477 The action of the Board in suspending or revoking any license or in imposing a civil penalty against
5478 the holder of a brewery license shall be subject to judicial review in accordance with the Administrative
5479 Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the
5480 Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals
5481 from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court
5482 shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals.
5483 Neither mandamus nor injunction shall lie in any such case.

5484 B. In suspending any license the Board may impose, as a condition precedent to the removal of
5485 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
5486 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
5487 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty
5488 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the
5489 violation or \$5,000 for the second violation occurring within five years immediately preceding the date of

5490 the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited
5491 from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage,
5492 intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first
5493 violation occurring within five years immediately preceding the date of the violation and \$6,000 for a
5494 second violation occurring within five years immediately preceding the date of the second violation in
5495 lieu of such suspension or any portion thereof, or both. Upon making a finding that aggravating
5496 circumstances exist, the Board may also impose a requirement that the licensee pay for the cost incurred
5497 by the Board not exceeding \$10,000 in investigating the licensee and in holding the proceeding resulting
5498 in the violation in addition to any suspension or civil penalty incurred.

5499 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
5500 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a
5501 consent agreement as authorized in subdivision 22 of § 4.1-103. The notice shall advise the licensee or
5502 applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any
5503 right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and
5504 (c)(1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension
5505 of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of
5506 suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

5507 D. In case of an offense by the holder of a brewery license, the Board may (i) require that such
5508 holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-
5509 premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first
5510 violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or
5511 revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed
5512 \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling
5513 beer manufactured by it to the owners of boats registered under the laws of the United States sailing for
5514 ports of call of a foreign country or another state, and to persons outside the Commonwealth.

5515 E. The Board shall, by regulation or written order:

5516 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
5517 initial hearing;

5518 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu
5519 of suspension may be accepted for a first offense occurring within three years immediately preceding the
5520 date of the violation;

5521 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
5522 civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees
5523 alcohol server or seller training certified in advance by the Board;

5524 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
5525 license and the civil charge acceptable in lieu of such suspension; and

5526 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
5527 licensee has had no prior violations within five years immediately preceding the date of the violation. No
5528 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~
5529 subtitle or Board regulations.

5530 **§ 4.1-227. (Effective July 1, 2021) Suspension or revocation of licenses; notice and hearings;**
5531 **imposition of penalties.**

5532 A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery
5533 licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall
5534 be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act
5535 (§ 2.2-4000 et seq.).

5536 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
5537 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
5538 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
5539 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
5540 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
5541 chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
5542 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and

5543 upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against
5544 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
5545 of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought
5546 within ten working days, notwithstanding anything to the contrary in § 4.1-103.

5547 If the Board fails to provide for inspection or copying under this section for the licensee after a
5548 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
5549 have lawfully been entitled to inspect or copy under this section.

5550 The action of the Board in suspending or revoking any license or in imposing a civil penalty against
5551 the holder of a brewery license shall be subject to judicial review in accordance with the Administrative
5552 Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the
5553 Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals
5554 from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court
5555 shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals.
5556 Neither mandamus nor injunction shall lie in any such case.

5557 B. In suspending any license the Board may impose, as a condition precedent to the removal of
5558 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
5559 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
5560 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty
5561 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the
5562 violation or \$5,000 for the second violation occurring within five years immediately preceding the date of
5563 the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited
5564 from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage,
5565 intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first
5566 violation occurring within five years immediately preceding the date of the violation and \$6,000 for a
5567 second violation occurring within five years immediately preceding the date of the second violation in
5568 lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the

5569 licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in
5570 holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

5571 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
5572 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a
5573 consent agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the licensee or
5574 applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any
5575 right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and
5576 (c)(1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension
5577 of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of
5578 suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

5579 D. In case of an offense by the holder of a brewery license, the Board may (i) require that such
5580 holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-
5581 premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first
5582 violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or
5583 revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed
5584 \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling
5585 beer manufactured by it to the owners of boats registered under the laws of the United States sailing for
5586 ports of call of a foreign country or another state, and to persons outside the Commonwealth.

5587 E. The Board shall, by regulation or written order:

5588 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
5589 initial hearing;

5590 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu
5591 of suspension may be accepted for a first offense occurring within three years immediately preceding the
5592 date of the violation;

5593 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
5594 civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees
5595 alcohol server or seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title~~ subtitle or Board regulations.

§ 4.1-230. (Effective until July 1, 2021) Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this ~~title~~ subtitle; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be

5623 submitted to the Board not more than 30 days following initial publication of the notice required pursuant
5624 to this subsection.

5625 The applicant shall also cause notice to be published at least once a week for two consecutive
5626 weeks in a newspaper published in or having a general circulation in the county, city or town wherein
5627 such applicant proposes to engage in such business. Such notice shall contain such information as required
5628 by the Board, including a statement that any objections to the issuance of the license be submitted to the
5629 Board not later than 30 days from the date of the initial newspaper publication. In the case of wine or beer
5630 shipper's licensees, wine and beer shipper's licensees, delivery permittees or operators of boats, dining
5631 cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be required.

5632 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club
5633 events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, beer or wine
5634 importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to
5635 include a criminal history records search, which may include a fingerprint-based national criminal history
5636 records search, on each applicant for a license. However, the Board may waive, for good cause shown,
5637 the requirement for a criminal history records search and completed personal data form for officers,
5638 directors, nonmanaging members, or limited partners of any applicant corporation, limited liability
5639 company, or limited partnership.

5640 Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and
5641 delivery permits, the Board shall notify the local governing body of each license application through the
5642 county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall
5643 submit objections to the granting of a license within 30 days of the filing of the application.

5644 C. Each applicant shall pay the required application fee at the time the application is filed. Each
5645 license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus
5646 the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the
5647 Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of
5648 Investigation or the Central Criminal Records Exchange for each criminal history records search required
5649 by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the

5650 application fee shall be \$15. The application fee for banquet special event and mixed beverage special
5651 event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant
5652 to § 4.1-231 and shall not be refunded.

5653 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however,
5654 all licensees shall file and maintain with the Board a current, accurate record of the information required
5655 by the Board pursuant to subsection A and notify the Board of any changes to such information in
5656 accordance with Board regulations.

5657 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the
5658 Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be
5659 accompanied by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to
5660 proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall
5661 be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by one-
5662 half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths. Each such
5663 permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended or revoked
5664 by the Board. Such permits shall confer upon their holders no authority to make solicitations in the
5665 Commonwealth as otherwise provided by law.

5666 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
5667 for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied
5668 by the number of months for which the permit is granted.

5669 The fee for a keg registration permit shall be \$65 annually.

5670 The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs
5671 bond or internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

5672 **§ 4.1-230. (Effective July 1, 2021) Applications for licenses; publication; notice to localities;**
5673 **fees; permits.**

5674 A. Every person intending to apply for any license authorized by this chapter shall file with the
5675 Board an application on forms provided by the Board and a statement in writing by the applicant swearing
5676 and affirming that all of the information contained therein is true.

5677 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain
5678 a food establishment permit from the Department of Health or an inspection by the Department of
5679 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a
5680 pending application for such permit, or proof of a pending request for such inspection. If the applicant
5681 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof
5682 of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on
5683 the basis of a pending application or inspection, such license shall authorize the licensee to purchase
5684 alcoholic beverages in accordance with the provisions of this ~~title~~ subtitle; however, the licensee shall not
5685 sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

5686 B. In addition, each applicant for a license under the provisions of this chapter, except applicants
5687 for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine
5688 and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of
5689 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with
5690 the Board on the front door of the building, place or room where he proposes to engage in such business
5691 for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such
5692 information as required by the Board, including a statement that any objections shall be submitted to the
5693 Board not more than 30 days following initial publication of the notice required pursuant to this
5694 subsection.

5695 The applicant shall also cause notice to be published at least once a week for two consecutive
5696 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein
5697 such applicant proposes to engage in such business. Such notice shall contain such information as required
5698 by the Board, including a statement that any objections to the issuance of the license be submitted to the
5699 Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and
5700 beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, buses,
5701 and airplanes, the posting and publishing of notice shall not be required.

5702 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club
5703 events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts

5704 venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal
5705 history records search, which may include a fingerprint-based national criminal history records search, on
5706 each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a
5707 criminal history records search and completed personal data form for officers, directors, nonmanaging
5708 members, or limited partners of any applicant corporation, limited liability company, or limited
5709 partnership.

5710 Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall
5711 notify the local governing body of each license application through the county or city attorney or the chief
5712 law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of
5713 a license within 30 days of the filing of the application.

5714 C. Each applicant shall pay the required application fee at the time the application is filed. Each
5715 license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus
5716 the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the
5717 Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of
5718 Investigation or the Central Criminal Records Exchange for each criminal history records search required
5719 by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the
5720 application fee shall be \$15. The application fee for banquet special event and mixed beverage special
5721 event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant
5722 to § 4.1-231.1 and shall not be refunded.

5723 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however,
5724 all licensees shall file and maintain with the Board a current, accurate record of the information required
5725 by the Board pursuant to subsection A and notify the Board of any changes to such information in
5726 accordance with Board regulations.

5727 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the
5728 Board. Such permits shall confer upon their holders no authority to make solicitations in the
5729 Commonwealth as otherwise provided by law.

5730 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
5731 for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied
5732 by the number of months for which the permit is granted.

5733 F. The Board shall have the authority to increase state license fees from the amounts set forth in §
5734 4.1-231.1 as it was in effect on July 1, 2021. The Board shall set the amount of such increases on the basis
5735 of the consumer price index and shall not increase fees more than once every three years. Prior to
5736 implementing any state license fee increase, the Board shall provide notice to all licensees and the general
5737 public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any
5738 license affected by the Board's proposed fee increases. Such notice shall be provided on or before
5739 November 1 in any year in which the Board has decided to increase state license fees, and such increases
5740 shall become effective July 1 of the following year.

5741 **§ 4.1-231. (Repealed effective July 1, 2021) Taxes on state licenses.**

5742 A. The annual fees on state licenses shall be as follows:

5743 1. Alcoholic beverage licenses. For each:

5744 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured
5745 during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000
5746 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during
5747 such year, \$3,725;

5748 b. Fruit distiller's license, \$3,725;

5749 c. Banquet facility license or museum license, \$190;

5750 d. Bed and breakfast establishment license, \$35;

5751 e. Tasting license, \$40 per license granted;

5752 f. Equine sporting event license, \$130;

5753 g. Motor car sporting event facility license, \$130;

5754 h. Day spa license, \$100;

5755 i. Delivery permit, \$120 if the permittee holds no other license under this ~~title~~ subtitle;

5756 j. Meal-assembly kitchen license, \$100;

- 5757 k. Canal boat operator license, \$100;
- 5758 l. Annual arts venue event license, \$100;
- 5759 m. Art instruction studio license, \$100;
- 5760 n. Commercial lifestyle center license, \$300;
- 5761 o. Confectionery license, \$100;
- 5762 p. Local special events license, \$300;
- 5763 q. Coworking establishment license, \$500; and
- 5764 r. Bespoke clothier establishment license, \$100.
- 5765 2. Wine licenses. For each:
- 5766 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which
- 5767 the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
- 5768 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less
- 5769 per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
- 5770 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
- 5771 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of
- 5772 wine per year;
- 5773 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or
- 5774 more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied
- 5775 by the number of separate locations covered by the license;
- 5776 c. Wine importer's license, \$370;
- 5777 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
- 5778 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
- 5779 which shall include a delivery permit;
- 5780 f. Wine shipper's license, \$230; and
- 5781 g. Internet wine retailer license, \$150.
- 5782 3. Beer licenses. For each:

- 5783 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
5784 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
5785 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
- 5786 b. Bottler's license, \$1,430;
- 5787 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
5788 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer
5789 a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
- 5790 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall
5791 be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
5792 license;
- 5793 d. Beer importer's license, \$370;
- 5794 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
5795 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
5796 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars
5797 operated daily in the Commonwealth;
- 5798 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
- 5799 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
5800 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery
5801 permit;
- 5802 h. Beer shipper's license, \$230;
- 5803 i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
- 5804 j. Internet beer retailer license, \$150.
- 5805 4. Wine and beer licenses. For each:
- 5806 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
5807 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier
5808 of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet

cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;

b. Retail on-premises wine and beer license to a hospital, \$145;

c. Retail on-premises wine and beer license to a historic cinema house, \$200;

d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;

e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;

f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;

g. Gourmet brewing shop license, \$230;

h. Wine and beer shipper's license, \$230;

i. Annual banquet license, \$150;

j. Fulfillment warehouse license, \$120;

k. Marketing portal license, \$150; and

l. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$560;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and

- 5836 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- 5837 c. Mixed beverage caterer's license, \$1,860;
- 5838 d. Mixed beverage limited caterer's license, \$500;
- 5839 e. Mixed beverage special events license, \$45 for each day of each event;
- 5840 f. Mixed beverage club events licenses, \$35 for each day of each event;
- 5841 g. Annual mixed beverage special events license, \$560;
- 5842 h. Mixed beverage carrier license:
- 5843 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in
- 5844 the Commonwealth by a common carrier of passengers by train;
- 5845 (ii) \$560 for each common carrier of passengers by boat;
- 5846 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
- 5847 i. Annual mixed beverage amphitheater license, \$560;
- 5848 j. Annual mixed beverage motor sports race track license, \$560;
- 5849 k. Annual mixed beverage banquet license, \$500;
- 5850 l. Limited mixed beverage restaurant license:
- 5851 (i) With a seating capacity at tables for up to 100 persons, \$460;
- 5852 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
- 5853 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
- 5854 m. Annual mixed beverage motor sports facility license, \$560; and
- 5855 n. Annual mixed beverage performing arts facility license, \$560.
- 5856 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
- 5857 imposed by this section on the license for which the applicant applied.
- 5858 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall
- 5859 be subject to proration to the following extent: If the license is granted in the second quarter of any year,
- 5860 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
- 5861 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-
- 5862 fourths.

5863 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
5864 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to
5865 manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
5866 number of gallons permitted to be manufactured shall be prorated in the same manner.

5867 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
5868 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
5869 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
5870 would have been charged had such license been applied for at the time that the license to manufacture less
5871 than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be
5872 entitled to a refund of the amount of license tax previously paid on the limited license.

5873 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than
5874 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the
5875 nearest cent, multiplied by the number of months in the license period, and then increased by five percent.
5876 Such tax shall not be refundable, except as provided in § 4.1-232.

5877 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
5878 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
5879 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
5880 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
5881 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
5882 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the
5883 liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale
5884 merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be
5885 disregarded.

5886 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license
5887 purchased in person from the Board if such license is available for purchase online.

5888 **§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and**
5889 **automated clearinghouse information.**

5890 A. The Board may accept payment by any commercially acceptable means, including checks,
5891 credit cards, debit cards, and electronic funds transfers, for the taxes, penalties, or other fees imposed on
5892 a licensee in accordance with this ~~title~~ subtitle. In addition, the Board may assess a service charge for the
5893 use of a credit or debit card. The service charge shall not exceed the amount negotiated and agreed to in a
5894 contract with the Department.

5895 B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record
5896 of the applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information and
5897 use such information for future payments of taxes, penalties, other fees, or amounts due for products
5898 purchased from the Board. The Board may assess a service charge as provided in subsection A for any
5899 payments made under this subsection. The Board may procure the services of a third-party vendor for the
5900 secure storage of information collected pursuant to this subsection.

5901 **§ 4.1-300. Illegal manufacture and bottling; penalty.**

5902 A. Except as otherwise provided in §§ 4.1-200 and 4.1-201, no person shall manufacture alcoholic
5903 beverages in the Commonwealth without being licensed under this ~~title~~ subtitle to manufacture such
5904 alcoholic beverages. Nor shall any person, other than a brewery licensee or bottler's licensee, bottle beer
5905 for sale.

5906 B. The presence of mash at an unlicensed distillery shall constitute manufacturing within the
5907 meaning of this section.

5908 C. Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

5909 **§ 4.1-302. Illegal sale of alcoholic beverages in general; penalty.**

5910 If any person who is not licensed sells any alcoholic beverages except as permitted by this ~~title~~
5911 subtitle, he shall be guilty of a Class 1 misdemeanor.

5912 In the event of a second or subsequent conviction under this section, a jail sentence of no less than
5913 thirty days shall be imposed and in no case be suspended.

5914 **§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.**

5915 If any person buys alcoholic beverages from any person other than the Board, a government store
5916 or a person authorized under this ~~title~~ subtitle to sell alcoholic beverages, he shall be guilty of a Class 1
5917 misdemeanor.

5918 **§ 4.1-310. (Effective until July 1, 2021) Illegal importation, shipment and transportation of**
5919 **alcoholic beverages; penalty; exception.**

5920 A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported or
5921 brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned
5922 to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the
5923 Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be
5924 manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons. On
5925 such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

5926 B. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no wine shall be imported, shipped,
5927 transported or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

5928 C. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no beer shall be imported, shipped,
5929 transported or brought into the Commonwealth except to persons licensed to sell it.

5930 D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5931 E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal
5932 possession, or through United States Customs in his accompanying baggage, into the Commonwealth not
5933 for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the
5934 alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or transportation
5935 into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in the personal or
5936 household effects of a person relocating his place of residence to the Commonwealth, or (iii) the
5937 possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and club cars,
5938 licensed under this ~~title~~ subtitle, or common carriers engaged in interstate or foreign commerce.

5939 **§ 4.1-310. (Effective July 1, 2021) Illegal importation, shipment and transportation of**
5940 **alcoholic beverages; penalty; exception.**

5941 A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported, or
5942 brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned
5943 to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the
5944 Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be
5945 manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons. On
5946 such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

5947 B. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no
5948 wine shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to
5949 a wholesale wine licensee.

5950 C. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no
5951 beer shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed
5952 to sell it.

5953 D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

5954 E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal
5955 possession, or through United States Customs in his accompanying baggage, into the Commonwealth not
5956 for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the
5957 alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or transportation
5958 into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in the personal or
5959 household effects of a person relocating his place of residence to the Commonwealth, or (iii) the
5960 possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and club cars,
5961 licensed under this ~~title~~ subtitle, or common carriers engaged in interstate or foreign commerce.

5962 **§ 4.1-310.1. (Effective until July 1, 2021) Delivery of wine or beer to retail licensee.**

5963 Except as otherwise provided in this ~~title~~ subtitle or in Board regulation, no wine or beer may be
5964 shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to
5965 the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the
5966 wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's

5967 inventory. Any holder of a restricted wholesale wine license issued pursuant to § 4.1-207.1 shall be exempt
5968 from the requirement set forth in clause (ii).

5969 **§ 4.1-310.1. (Effective July 1, 2021) Delivery of wine or beer to retail licensee.**

5970 Except as otherwise provided in this ~~title~~ subtitle or in Board regulation, no wine or beer may be
5971 shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to
5972 the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the
5973 wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's
5974 inventory. Any holder of a restricted wholesale wine license issued pursuant to subdivision 3 of § 4.1-
5975 206.2 shall be exempt from the requirement set forth in clause (ii).

5976 **§ 4.1-320. Illegal advertising; penalty; exception.**

5977 A. Except in accordance with this ~~title~~ subtitle and Board regulations, no person shall advertise in
5978 or send any advertising matter into the Commonwealth about or concerning alcoholic beverages other
5979 than those which may legally be manufactured or sold without a license.

5980 B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic
5981 beverage advertising on lawfully erected signs provided such display is done in accordance with § 4.1-
5982 112.2 and Board regulations.

5983 C. Except as provided in subsection D, any person convicted of a violation of this section shall be
5984 guilty of a Class 1 misdemeanor.

5985 D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising,
5986 the Board shall give the advertiser written notice to take corrective action to either bring the advertisement
5987 into compliance with this ~~title~~ subtitle and Board regulations or to remove such advertisement. If corrective
5988 action is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

5989 E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a
5990 wholesale value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic
5991 contests; (ii) the exhibition or display of automobiles, boats, or aircraft regularly and normally used in
5992 racing or other competitive events and the sponsorship of an automobile, boat or aircraft racing team by a
5993 licensed distillery, winery or brewery and the display on the automobile, boat or aircraft and uniforms of

5994 the members of the racing team, the trademark or brand name of an alcoholic beverage manufactured by
5995 such distillery, winery or brewery; (iii) the sponsorship of a professional athletic event, including, but not
5996 limited to, golf, auto racing or tennis, by a licensed distillery, winery or brewery or the use of any
5997 trademark or brand name of any alcoholic beverage in connection with such sponsorship; (iv) the
5998 advertisement of beer by the display of such product's name on any airship, which advertising is paid for
5999 by the manufacturer of such product; (v) the advertisement of beer or any alcoholic beverage by the display
6000 of such product's name on any scale model, reproduction or replica of any motor vehicle, aircraft or
6001 watercraft offered for sale; (vi) the placement of billboard advertising within stadia, coliseums, or
6002 racetracks that are used primarily for professional or semiprofessional athletic or sporting events; or (vii)
6003 the sponsorship of an entertainment or cultural event.

6004 **§ 4.1-323. Attempts; aiding or abetting; penalty.**

6005 No person shall attempt to do any of the things prohibited by this ~~title~~ subtitle or to aid or abet
6006 another in doing, or attempting to do, any of the things prohibited by this ~~title~~ subtitle.

6007 On an indictment, information or warrant for the violation of this ~~title~~ subtitle, the jury or the court
6008 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same
6009 as if the defendant were solely guilty of such violation.

6010 **§ 4.1-324. Illegal sale or keeping of alcoholic beverages by licensees; penalty.**

6011 A. No licensee or any agent or employee of such licensee shall:

6012 1. Sell any alcoholic beverages of a kind other than that which such license or this ~~title~~ subtitle
6013 authorizes him to sell;

6014 2. Sell beer to which wine, spirits or alcohol has been added, except that a mixed beverage licensee
6015 may combine wine or spirits, or both, with beer pursuant to a patron's order;

6016 3. Sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the
6017 manufacture thereof under Board regulations, except that a mixed beverage licensee may (i) make sangria
6018 that contains brandy, triple sec, or other similar spirits and (ii) combine beer or spirits, or both, with wine
6019 pursuant to a patron's order;

- 6020 4. Sell alcoholic beverages of a kind which such license or this ~~title~~ subtitle authorizes him to sell,
6021 but to any person other than to those to whom such license or this ~~title~~ subtitle authorizes him to sell;
- 6022 5. Sell alcoholic beverages which such license or this ~~title~~ subtitle authorizes him to sell, but in
6023 any place or in any manner other than such license or this ~~title~~ subtitle authorizes him to sell;
- 6024 6. Sell any alcoholic beverages when forbidden by this ~~title~~ subtitle;
- 6025 7. Keep or allow to be kept, other than in his residence and for his personal use, any alcoholic
6026 beverages other than that which he is authorized to sell by such license or by this ~~title~~ subtitle;
- 6027 8. Sell any beer to a retail licensee, except for cash, if the seller holds a brewery, bottler's or
6028 wholesale beer license;
- 6029 9. Sell any beer on draft and fail to display to customers the brand of beer sold or misrepresent the
6030 brand of any beer sold;
- 6031 10. Sell any wine for delivery within the Commonwealth to a retail licensee, except for cash, if the
6032 seller holds a wholesale wine or farm winery license;
- 6033 11. Keep or allow to be kept or sell any vaporized form of an alcoholic beverage produced by an
6034 alcohol vaporizing device;
- 6035 12. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by
6036 him except: (i) for a frozen alcoholic beverage; and (ii) in the case of wine, in containers of a type approved
6037 by the Board pending automatic dispensing and sale of such wine; or
- 6038 13. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift
6039 or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase
6040 the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal
6041 or customary price charged for the same alcoholic beverage.
- 6042 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.
- 6043 C. Neither this section nor any Board regulation shall prohibit an on-premises restaurant licensee
6044 from using alcoholic beverages that the licensee otherwise is authorized to purchase and possess for the
6045 purposes of preparing and selling for on-premises consumption food products with a final alcohol content

6046 of more than one-half of one percent by volume, as long as such food products are sold to and consumed
6047 by persons who are 21 years of age or older.

6048 **§ 4.1-325. (Effective until July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.**

6049 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee
6050 shall:

6051 1. Sell or serve any alcoholic beverage other than as authorized by law;

6052 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by
6053 law;

6054 3. Allow at the place described in his license the consumption of alcoholic beverages in violation
6055 of this ~~title~~ subtitle;

6056 4. Keep at the place described in his license any alcoholic beverage other than that which he is
6057 licensed to sell;

6058 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

6059 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by
6060 him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink
6061 dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the
6062 Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board
6063 regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee
6064 from premixing containers of sangria, to which spirits may be added, to be served and sold for
6065 consumption on the licensed premises;

6066 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper
6067 with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation
6068 adopted pursuant to subdivision B 11 of § 4.1-111;

6069 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the
6070 purchaser without first advising such purchaser of the difference;

6071 9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages
6072 offered for sale;

6073 10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or
6074 obliterated;

6075 11. Allow any obscene conduct, language, literature, pictures, performance or materials on the
6076 licensed premises;

6077 12. Allow any striptease act on the licensed premises;

6078 13. Allow persons connected with the licensed business to appear nude or partially nude;

6079 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty
6080 and in a position that is involved in the selling or serving of alcoholic beverages to customers.

6081 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee
6082 from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative
6083 of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of
6084 the Board who represents a distiller, if such samples are provided in accordance with Board regulations
6085 and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of §
6086 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality
6087 control purposes;

6088 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license
6089 whether the closure is broken or unbroken except in accordance with § 4.1-210.

6090 The provisions of this subdivision shall not apply to the delivery of:

6091 a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic
6092 beverage distilled from rice, barley or sweet potatoes; or

6093 b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content
6094 is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and
6095 perishable;

6096 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

6097 17. Conceal any sale or consumption of any alcoholic beverages;

6098 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request
6099 or obstruct special agents of the Board in the discharge of their duties;

6100 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove
6101 any such alcoholic beverages from the premises;

6102 20. Knowingly employ in the licensed business any person who has the general reputation as a
6103 prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who
6104 drinks to excess or engages in illegal gambling;

6105 21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device,
6106 machine or apparatus;

6107 22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a
6108 matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction
6109 set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any
6110 conference, convention, trade show or event held or to be held on the premises of the licensee, when such
6111 gift is made in the course of usual and customary business entertainment and is in no way a shift or device
6112 to evade the restriction set forth in this subdivision; (iii) pursuant to subsection D of § 4.1-209; (iv)
6113 pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by
6114 this subdivision shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages.

6115 The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision;
6116 or

6117 23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift
6118 or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase
6119 the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal
6120 or customary price charged for the same alcoholic beverage.

6121 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

6122 C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters,
6123 concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or
6124 theatrical performances, when the performances that are presented are expressing matters of serious
6125 literary, artistic, scientific, or political value.

6126 **§ 4.1-325. (Effective July 1, 2021) Prohibited acts by mixed beverage licensees; penalty.**

- 6127 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee
6128 shall:
- 6129 1. Sell or serve any alcoholic beverage other than as authorized by law;
 - 6130 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by
6131 law;
 - 6132 3. Allow at the place described in his license the consumption of alcoholic beverages in violation
6133 of this ~~title~~ subtitle;
 - 6134 4. Keep at the place described in his license any alcoholic beverage other than that which he is
6135 licensed to sell;
 - 6136 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
 - 6137 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by
6138 him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink
6139 dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the
6140 Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board
6141 regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee
6142 from premixing containers of sangria, to which spirits may be added, to be served and sold for
6143 consumption on the licensed premises;
 - 6144 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper
6145 with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation
6146 adopted pursuant to subdivision B 11 of § 4.1-111;
 - 6147 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the
6148 purchaser without first advising such purchaser of the difference;
 - 6149 9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages
6150 offered for sale;
 - 6151 10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or
6152 obliterated;

6153 11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the
6154 licensed premises;

6155 12. Allow any striptease act on the licensed premises;

6156 13. Allow persons connected with the licensed business to appear nude or partially nude;

6157 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty
6158 and in a position that is involved in the selling or serving of alcoholic beverages to customers.

6159 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee
6160 from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative
6161 of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of
6162 the Board who represents a distiller, if such samples are provided in accordance with Board regulations
6163 and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of §
6164 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality
6165 control purposes;

6166 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license
6167 whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

6168 The provisions of this subdivision shall not apply to the delivery of:

6169 a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic
6170 beverage distilled from rice, barley or sweet potatoes; or

6171 b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content
6172 is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and
6173 perishable;

6174 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

6175 17. Conceal any sale or consumption of any alcoholic beverages;

6176 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request
6177 or obstruct special agents of the Board in the discharge of their duties;

6178 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove
6179 any such alcoholic beverages from the premises;

6180 20. Knowingly employ in the licensed business any person who has the general reputation as a
6181 prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who
6182 drinks to excess or engages in illegal gambling;

6183 21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device,
6184 machine or apparatus;

6185 22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a
6186 matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction
6187 set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any
6188 conference, convention, trade show or event held or to be held on the premises of the licensee, when such
6189 gift is made in the course of usual and customary business entertainment and is in no way a shift or device
6190 to evade the restriction set forth in this subdivision; (iii) pursuant to subsection B of § 4.1-209; (iv)
6191 pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by
6192 this subdivision shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages.

6193 The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision;
6194 or

6195 23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift
6196 or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase
6197 the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal
6198 or customary price charged for the same alcoholic beverage.

6199 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

6200 C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters,
6201 concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or
6202 theatrical performances, when the performances that are presented are expressing matters of serious
6203 literary, artistic, scientific, or political value.

6204 **§ 4.1-325.2. (Effective until July 1, 2021) Prohibited acts by employees of wine or beer**
6205 **licensees; penalty.**

6206 A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or
6207 employee shall consume any alcoholic beverages while on duty and in a position that is involved in the
6208 selling or serving of alcoholic beverages to customers.

6209 The provisions of this subsection shall not prohibit any retail licensee or his designated employee
6210 from (i) consuming product samples or sample servings of beer or wine provided by a representative of a
6211 licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board
6212 regulations and the retail licensee or his designated employee does not violate the provisions of
6213 subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a
6214 customer for quality control purposes.

6215 B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its
6216 employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not
6217 be deemed to be agents of the retail wine or beer licensee.

6218 C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic
6219 beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so
6220 long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a
6221 person responsible for the planning, preparation or conduct on any conference, convention, trade show or
6222 event held or to be held on the premises of the licensee, when such gift is made in the course of usual and
6223 customary business entertainment and is in no way a shift or device to evade the restriction set forth in
6224 this subsection; (iii) pursuant to subsection D of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201;
6225 or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes
6226 imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and
6227 accurate records of gifts given in accordance with this subsection.

6228 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an
6229 amount not to exceed \$500.

6230 § 4.1-325.2. (Effective July 1, 2021) Prohibited acts by employees of wine or beer licensees;
6231 penalty.

6232 A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or
6233 employee shall consume any alcoholic beverages while on duty and in a position that is involved in the
6234 selling or serving of alcoholic beverages to customers.

6235 The provisions of this subsection shall not prohibit any retail licensee or his designated employee
6236 from (i) consuming product samples or sample servings of beer or wine provided by a representative of a
6237 licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board
6238 regulations and the retail licensee or his designated employee does not violate the provisions of
6239 subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a
6240 customer for quality control purposes.

6241 B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its
6242 employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not
6243 be deemed to be agents of the retail wine or beer licensee.

6244 C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic
6245 beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so
6246 long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a
6247 person responsible for the planning, preparation or conduct on any conference, convention, trade show or
6248 event held or to be held on the premises of the licensee, when such gift is made in the course of usual and
6249 customary business entertainment and is in no way a shift or device to evade the restriction set forth in
6250 this subsection; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201;
6251 or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes
6252 imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and
6253 accurate records of gifts given in accordance with this subsection.

6254 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an
6255 amount not to exceed \$500.

6256 **§ 4.1-329. Illegal advertising materials; penalty.**

6257 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to,
6258 any manufacturer, as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying

6259 for or giving to any person any advertising materials or decorations under circumstances prohibited by
6260 this ~~title~~ subtitle or Board regulations.

6261 Any person found by the Board to have violated this section shall be subject to a civil penalty as
6262 provided in § 4.1-227.

6263 **§ 4.1-336. Contraband beverages and other articles subject to forfeiture.**

6264 All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all
6265 alcoholic beverages and materials used in their manufacture, all containers in which alcoholic beverages
6266 may be found, which are kept, stored, possessed, or in any manner used in violation of the provisions of
6267 this ~~title~~ subtitle, and any dangerous weapons as described in § 18.2-308, which may be used, or which
6268 may be found upon the person or in any vehicle which such person is using, to aid such person in the
6269 unlawful manufacture, transportation or sale of alcoholic beverages, or found in the possession of such
6270 person, or any horse, mule or other beast of burden, any wagon, automobile, truck or vehicle of any nature
6271 whatsoever which is found in the immediate vicinity of any place where alcoholic beverages are being
6272 unlawfully manufactured and which such animal or vehicle is being used to aid in the unlawful
6273 manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

6274 Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for
6275 all such property except motor vehicles which proceedings shall be in accordance with Chapter 22.1 (§
6276 19.2-386.1 et seq.) of Title 19.2.

6277 **§ 4.1-337. Search warrants.**

6278 A. If complaint on oath is made that alcoholic beverages are being manufactured, sold, kept, stored,
6279 or in any manner held, used or concealed in a particular house, or other place, in violation of law, the
6280 judge, magistrate, or other person having authority to issue criminal warrants, to whom such complaint is
6281 made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house
6282 or other place for alcoholic beverages. Such warrants, except as herein otherwise provided, shall be issued,
6283 directed and executed in accordance with the laws of the Commonwealth pertaining to search warrants.

6284 B. Warrants issued under this ~~title~~ subtitle for the search of any automobile, boat, conveyance or
6285 vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or

not, for alcoholic beverages, may be executed in any part of the Commonwealth where they are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.

§ 4.1-338. Confiscation proceedings; disposition of forfeited articles.

A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited to the Commonwealth under this chapter shall be as provided in this section.

B. Production of seized property. -- Whenever any article declared contraband under the provisions of this ~~title~~ subtitle and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the enforcement of this ~~title~~ subtitle, he shall produce the contraband article and any person in whose possession it was found. In those cases where no person is found in possession of such articles the return shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found, or if there is no door, then in any conspicuous place upon the premises.

In case of seizure of a still, doubler, worm, worm tub, mash tub, fermenting tub, or other distilling apparatus, for any offense involving their forfeiture, where it is impracticable to remove such distilling apparatus to a place of safe storage from the place where seized, the seizing officer may destroy such apparatus only as necessary to prevent use of all or any part thereof for the purpose of distilling. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the apparatus destroyed, and the materials remaining after such destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the distilling apparatus was set up for use, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove such apparatus to a place of safe storage.

In case of seizure of any quantity of mash, or of alcoholic beverages on which the tax imposed by the laws of the United States has not been paid, for any offense involving forfeiture of the same, the seizing

6313 officer may destroy them to prevent the use of all or any part thereof for the purpose of unlawful distillation
6314 of spirits or any other violation of this ~~title~~ subtitle. The destruction shall be in the presence of at least one
6315 credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction,
6316 to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for
6317 seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer
6318 and witness have no doubt whatever that the mash was intended for use in the unlawful distillation of
6319 spirits, or that the alcoholic beverages were intended for use in violation of this ~~title~~ subtitle.

6320 C. Hearing and determination. -- Upon the return of the warrant as provided in this section, the
6321 court shall fix a time not less than ten days, unless waived by the accused in writing, and not more than
6322 thirty days thereafter, for the hearing on such return to determine whether or not the articles seized, or any
6323 part thereof, were used or in any manner kept, stored or possessed in violation of this ~~title~~ subtitle.

6324 At such hearing if no claimant appears, the court shall declare the articles seized forfeited to the
6325 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
6326 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
6327 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
6328 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
6329 determine the validity of such claim.

6330 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
6331 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall
6332 not be a bar to any prosecution under any other provision of this ~~title~~ subtitle.

6333 D. Disposition of forfeited beverages and other articles. -- Any articles forfeited to the
6334 Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by
6335 the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund. If the
6336 Board believes that any alcoholic beverages forfeited to the Commonwealth and turned over to the Board
6337 in accordance with this section cannot be sold and should not be destroyed, it may give such alcoholic
6338 beverages for medicinal purposes to any institution in the Commonwealth regularly conducted as a
6339 hospital, nursing home or sanatorium for the care of persons in ill health, or as a home devoted exclusively

6340 to the care of aged people, to supply the needs of such institution for alcoholic beverages for such purposes,
6341 provided that (i) the State Health Commissioner has issued a certificate stating that such institution has
6342 need for such alcoholic beverages and (ii) preference is accorded by the Board to institutions supported
6343 either in whole or in part by public funds. A record shall be made showing the amount issued in each case,
6344 to whom issued and the date when issued, and shall be kept in the offices of the State Health Commissioner
6345 and the Board. No charge shall be made to any patient for the alcoholic beverages supplied to him where
6346 they have been received from the Board pursuant to this section. Such alcoholic beverages shall be
6347 administered only upon approval of the patient's physician.

6348 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the
6349 Board in accordance with this section are usable, should not be destroyed and cannot be sold or whose
6350 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall
6351 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.
6352 A record shall be made showing the nature of the foodstuffs and amount given, to whom given and the
6353 date when given, and shall be kept in the offices of the Board.

6354 **§ 4.1-348. Beverages not licensed under this subtitle.**

6355 The provisions of §§ 4.1-339 through 4.1-348 shall not apply to alcoholic beverages which may
6356 be manufactured and sold without any license under the provisions of this ~~title~~ subtitle.

6357 **§ 4.1-349. Punishment for violations of title or regulations; bond.**

6358 A. Any person convicted of a misdemeanor under the provisions of this ~~title~~ subtitle without
6359 specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or
6360 convicted of violating any Board regulation, shall be guilty of a Class 1 misdemeanor.

6361 B. In addition to the penalties imposed by this ~~title~~ subtitle for violations, any court before whom
6362 any person is convicted of a violation of any provision of this ~~title~~ subtitle may require such defendant to
6363 execute bond, with approved security, in the penalty of not more than \$1,000, with the condition that the
6364 defendant will not violate any of the provisions of this ~~title~~ subtitle for the term of one year. If any such
6365 bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is
6366 discharged by the court, provided he shall not be confined for a period longer than six months. If any such

bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this ~~title~~ subtitle shall not prevent the Board from suspending, revoking or refusing to continue the license of any person convicted of a violation of any provision of this ~~title~~ subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

§ 4.1-350. Witness not excused from testifying because of self-incrimination.

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this ~~title~~ subtitle by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him and he shall not be prosecuted for the offense to which he testifies.

§ 4.1-351. Previous convictions.

In any indictment, information or warrant charging any person with a violation of any provision of this ~~title~~ subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such person has been previously convicted of a violation of this ~~title~~ subtitle.

§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.

The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the Department of Forensic Science, when signed by him, shall be evidence in all prosecutions for violations of this ~~title~~ subtitle and all controversies in any judicial proceedings touching the mixture analyzed by him. On motion of the accused or any party in interest, the court may require the forensic scientist making the analysis to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable time prior to the day on which the case is set for trial.

§ 4.1-353. Label on sealed container prima facie evidence of alcoholic content.

In any prosecution for violations of this ~~title~~ subtitle, where a sealed container is labeled as containing an alcoholic beverage as defined herein, such labeling shall be prima facie evidence of the alcoholic content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the alcoholic content of a container, whether sealed or not.

6394 **§ 4.1-354. No recovery for alcoholic beverages illegally sold.**

6395 No action to recover the price of any alcoholic beverages sold in contravention of this ~~title~~ subtitle
6396 may be maintained.

6397 SUBTITLE II.

6398 CANNABIS CONTROL ACT.

6399 CHAPTER 6.

6400 GENERAL PROVISIONS.

6401 **§ 4.1-600. Definitions.**

6402 As used in this subtitle, unless the context requires a different meaning:

6403 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction
6404 that is calculated to induce sales of retail marijuana or retail marijuana products, including any written,
6405 printed, graphic, or other material, billboard, sign, or other outdoor display, publication, or radio or
6406 television broadcast.

6407 "Advisory Board" means the Cannabis Control Advisory Board established in § 4.1-602.

6408 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

6409 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

6410 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

6411 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or
6412 constructed to be significantly difficult for a typical child under five years of age to open and not to be
6413 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than
6414 a single use or that contains multiple servings, resealable.

6415 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing,
6416 grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate"
6417 does not include manufacturing or testing.

6418 "Edible marijuana product" means a marijuana product intended to be consumed orally, including
6419 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

6420 "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no
6421 wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

6422 "Licensed" means the holding of a valid license granted by the Authority.

6423 "Licensee" means any person to whom a license has been granted by the Authority.

6424 "Manufacturing" or "manufacture" means the production of marijuana products or the blending,
6425 infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana
6426 extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not
6427 include cultivation or testing.

6428 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or
6429 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
6430 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature
6431 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless
6432 such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. "Marijuana"
6433 does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered
6434 pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112,
6435 containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from
6436 industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or
6437 federal law. "Marijuana" and "cannabis" are interchangeable and identical in meaning.

6438 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more
6439 active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a
6440 marijuana plant is a concentrate for purposes of this subtitle.

6441 "Marijuana cultivation facility" means a facility licensed under this subtitle to purchase or take
6442 possession of marijuana plants and seeds from other marijuana cultivation facilities; to cultivate, label,
6443 and package retail marijuana; to transfer possession of and sell retail marijuana to marijuana
6444 manufacturing facilities, to marijuana wholesalers, and to other marijuana cultivation facilities; to sell
6445 marijuana plants and seeds to other marijuana cultivation facilities; and to sell immature marijuana plants
6446 and seeds to consumers for the purpose of cultivating marijuana at home for personal use.

6447 "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a
6448 marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

6449 "Marijuana manufacturing facility" means a facility licensed under this subtitle to purchase or take
6450 possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing
6451 facility; to manufacture, label, and package retail marijuana and retail marijuana products; and to transfer
6452 possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail
6453 marijuana stores, and other marijuana manufacturing facilities.

6454 "Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either
6455 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,
6456 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,
6457 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into
6458 the human body marijuana.

6459 "Marijuana products" means products that are composed of marijuana and other ingredients and
6460 are intended for use or consumption, ointments, and tinctures.

6461 "Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or
6462 test marijuana, marijuana products, and other substances.

6463 "Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession
6464 of retail marijuana and retail marijuana products from a marijuana cultivation facility, a marijuana
6465 manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail
6466 marijuana or retail marijuana products to a marijuana manufacturing facility, retail marijuana store, or
6467 another marijuana wholesaler.

6468 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed
6469 marijuana establishment.

6470 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by
6471 a licensed marijuana establishment.

6472 "Place or premises" means the real estate, together with any buildings or other improvements
6473 thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale,

6474 or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any
6475 such building or other improvement actually and exclusively used as a private residence.

6476 "Public place" means any place, building, or conveyance to which the public has, or is permitted
6477 to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,
6478 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
6479 highway, street, or lane.

6480 "Residence" means any building or part of a building or structure where a person resides, but does
6481 not include any part of a building that is not actually and exclusively used as a private residence, nor any
6482 part of a hotel or club other than a private guest room thereof.

6483 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed
6484 marijuana establishment.

6485 "Retail marijuana products" means marijuana products that are manufactured and sold by a
6486 licensed marijuana establishment.

6487 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession
6488 of marijuana; to purchase retail marijuana and retail marijuana products from a marijuana manufacturing
6489 facility or marijuana wholesaler; to receive possession of retail marijuana and retail marijuana products
6490 from a marijuana cultivation facility, a marijuana wholesaler, or a marijuana manufacturing facility; and
6491 to sell retail marijuana and retail marijuana products to consumers.

6492 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for
6493 sale; peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail
6494 marijuana or retail marijuana products.

6495 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board
6496 has designated as a law-enforcement officer pursuant to this subtitle.

6497 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other
6498 substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or
6499 manufacturing.

6500 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

6501 A. The General Assembly has determined that there exists in the Commonwealth a need to control
6502 the possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana
6503 products in the Commonwealth. Further, the General Assembly determines that the creation of an
6504 authority for this purpose is in the public interest, serves a public purpose, and will promote the health,
6505 safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this
6506 objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive
6507 of the legislative, executive, or judicial branches of state government, to be known as the Virginia
6508 Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this subtitle shall
6509 be deemed the performance of an essential governmental function and a matter of public necessity for
6510 which public moneys may be spent. The Board of Directors of the Authority is vested with control of the
6511 possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products
6512 in the Commonwealth, with plenary power to prescribe and enforce regulations and conditions under
6513 which retail marijuana and retail marijuana products are possessed, sold, transported, distributed, and
6514 delivered, so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote
6515 the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. The exercise
6516 of the powers granted by this subtitle shall be in all respects for the benefit of the citizens of the
6517 Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the
6518 assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private
6519 individual, except that reasonable compensation may be paid for services rendered to or for the Authority
6520 affecting one or more of its purposes, and benefits may be conferred that are in conformity with said
6521 purposes, and no private individual shall be entitled to share in the distribution of any of the corporate
6522 assets on dissolution of the Authority.

6523 B. The Virginia Cannabis Control Authority shall consist of the Virginia Cannabis Board of
6524 Directors, the Chief Executive Officer, and the agents and employees of the Authority.

6525 C. Nothing contained in this subtitle shall be construed as a restriction or limitation upon any
6526 powers that the Board of Directors might otherwise have under any other law of the Commonwealth.

6527 **§ 4.1-602. Cannabis Control Advisory Board.**

6528 A. The Chief Executive Officer of the Authority, in consultation with the Board, shall establish a
6529 Cannabis Control Advisory Board to assist the Authority in the development and operation of the statutory
6530 and regulatory programs governing the sale and use of cannabis. The Advisory Board shall consist of nine
6531 nonlegislative citizen members and one ex officio member. Members shall be representative of the various
6532 segments of the cannabis industry and shall reflect the racial, ethnic, and gender diversity of the
6533 Commonwealth. Nonlegislative citizen members shall be appointed as follows: three to be appointed by
6534 the Senate Committee on Rules, one of whom shall be a person who has been previously incarcerated or
6535 convicted of a marijuana-related crime, one of whom shall be an expert in the field of public health with
6536 experience in trauma-informed care, if possible, and one of whom shall be a medical professional as
6537 defined in § 38.2-602 with experience in appropriate public health duties; three to be appointed by the
6538 Speaker of the House of Delegates, at least one of whom shall be a member of a historically disadvantaged
6539 community; and three to be appointed by the Governor, subject to confirmation by the General Assembly,
6540 one of whom shall be an expert in consumer interest policies, one of whom shall be a small-acreage farmer
6541 who is a member of a historically disadvantaged community, and one of whom shall be a registered
6542 industrial hemp grower or registered industrial hemp processor. Each member shall (i) have been a resident
6543 of the Commonwealth for a period of at least three years next preceding his appointment, and his continued
6544 residency shall be a condition of his tenure in office and (ii) possess demonstrated experience or expertise
6545 in the regulation, manufacture, cultivation, or health effects of cannabis. Members shall be subject to a
6546 background check in accordance with § 4.1-609. The Director of Diversity, Equity, and Inclusion shall
6547 serve ex officio without voting privileges.

6548 B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a
6549 term of four years. The ex officio member shall serve a term coincident with his term in office. All
6550 members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for
6551 the unexpired term. No member shall be eligible to serve more than two consecutive terms; however, a
6552 member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Advisory
6553 Board may be removed from office by the Advisory Board for cause, including the improper use of its
6554 police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism,

6555 conflict of interests, failure to carry out the policies of the Commonwealth as established in the
6556 Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

6557 C. The Governor shall appoint the chairman and vice-chairman of the Advisory Board from among
6558 the membership of the Advisory Board. The Advisory Board may also form committees and advisory
6559 councils, which may include representatives who are not members of the Advisory Board, to undertake
6560 more extensive study and discussion of the issues before the Advisory Board. A majority of the Advisory
6561 Board shall constitute a quorum for the transaction of business, and no vacancy in the membership shall
6562 impair the right of a quorum to exercise the rights and perform all duties of the Advisory Board.

6563 D. Members of the Advisory Board shall receive no compensation for the performance of their
6564 duties but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of
6565 their duties as provided in §§ 2.2-2813 and 2.2-2825.

6566 E. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.)
6567 shall apply to the members of the Advisory Board.

6568 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum;**
6569 **meetings; compensation and expenses; duties.**

6570 A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an
6571 advisory council to the Advisory Board. The purpose of the Advisory Council is to assess and monitor
6572 public health issues, trends, and impacts related to marijuana and marijuana legalization and make
6573 recommendations regarding health warnings, retail marijuana and retail marijuana products safety and
6574 product composition, and public health awareness, programming, and related resource needs.

6575 B. The Advisory Council shall have a total membership of 21 members that shall consist of 14
6576 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the
6577 Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, and gender diversity of
6578 the Commonwealth. Nonlegislative citizen members shall be appointed as follows: five to be appointed
6579 by the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation
6580 for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American
6581 Academy of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, one

6582 of whom shall be a representative from the Virginia Pharmacists Association, and one of whom shall be
6583 a representative from a community services board; five to be appointed by the Speaker of the House of
6584 Delegates, one of whom shall be a person or health care provider with expertise in substance use disorder
6585 treatment and recovery, one of whom shall be a person or health care provider with expertise in substance
6586 use disorder prevention, one of whom shall be a person with experience in disability rights advocacy, one
6587 of whom shall be a person with experience in veterans health care, and one of whom shall be a person
6588 with a social or health equity background; and four to be appointed by the Governor, subject to
6589 confirmation by the General Assembly, one of whom shall be a representative of a local health district,
6590 one of whom shall be a person who is part of the cannabis industry, one of whom shall be an academic
6591 researcher knowledgeable about cannabis, and one of whom shall be a registered medical cannabis patient.

6592 The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner
6593 of Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer
6594 Services, the Director of the Department of Health Professions, the Director of the Department of Forensic
6595 Science, and the Chief Executive Officer of the Virginia Alcoholic Beverage and Cannabis Control
6596 Authority, or their designees, shall serve ex officio with voting privileges. Ex officio members of the
6597 Advisory Council shall serve terms coincident with their terms of office.

6598 After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term
6599 of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
6600 terms. Vacancies shall be filled in the same manner as the original appointments. All members may be
6601 reappointed.

6602 The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his
6603 designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of
6604 the members shall constitute a quorum. The Advisory Council shall meet at least two times each year and
6605 shall meet at the call of the chairman or whenever the majority of the members so request.

6606 The Advisory Council shall have the authority to create subgroups with additional stakeholders,
6607 experts, and state agency representatives.

6608 C. Members shall receive no compensation for the performance of their duties but shall be
6609 reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as
6610 provided in §§ 2.2-2813 and 2.2-2825.

6611 D. The Advisory Council shall have the following duties, in addition to duties that may be
6612 necessary to fulfill its purpose as described in subsection A:

6613 1. To review multi-agency efforts to support collaboration and a unified approach on public health
6614 responses related to marijuana and marijuana legalization in the Commonwealth and to develop
6615 recommendations as necessary.

6616 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the
6617 Commonwealth and the science and medical information relevant to the potential health risks associated
6618 with such drug use, and make appropriate recommendations to the Department of Health and the Advisory
6619 Board.

6620 3. Submit an annual report to the Governor and the General Assembly for publication as a report
6621 document as provided in the procedures of the Division of Legislative Automated Systems for the
6622 processing of legislative documents and reports. The chairman shall submit to the Governor and the
6623 General Assembly an annual executive summary of the interim activity and work of the Advisory Council
6624 no later than the first day of each regular session of the General Assembly. The executive summary shall
6625 be submitted as a report document as provided in the procedures of the Division of Legislative Automated
6626 Systems for the processing of legislative documents and reports and shall be posted on the General
6627 Assembly's website.

6628 **§ 4.1-604. Powers and duties of the Board.**

6629 The Board shall have the following powers and duties:

6630 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
6631 and § 4.1-606;

6632 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

6633 3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and
6634 testing of marijuana and marijuana products as provided by law;

- 6635 4. Determine the nature, form, and capacity of all containers used for holding marijuana products
6636 to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;
- 6637 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;
- 6638 6. Establish standards and implement an online course for employees of retail marijuana stores
6639 that trains employees on how to educate consumers on the potential risks of marijuana use;
- 6640 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or
6641 similar document regarding the potential risks of marijuana use to be prominently displayed and made
6642 available to consumers;
- 6643 8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business
6644 Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on
6645 matters related to diversity, equity, and inclusion standards in the marijuana industry;
- 6646 9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop
6647 requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish
6648 to possess more than one license, and an approval process and requirements for implementation of such
6649 plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned,
6650 and minority-owned businesses and veteran-owned businesses interested in participating in the marijuana
6651 industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide
6652 assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness
6653 of business opportunities related to the marijuana marketplace in areas disproportionately impacted by
6654 marijuana prohibition and enforcement; (v) provide technical assistance in navigating the administrative
6655 process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas
6656 disproportionately impacted by marijuana prohibition and enforcement as necessary;
- 6657 10. Establish a position for an individual with professional experience in a health related field who
6658 shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the
6659 Office of the Secretary of Health and Human Resources and relevant health and human services agencies
6660 and organizations, and perform other duties as needed.

6661 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and
6662 the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana
6663 industry by people from communities that have been disproportionately impacted by marijuana
6664 prohibition and enforcement and to positively impact those communities;

6665 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

6666 13. Adopt, use, and alter at will a common seal;

6667 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of,
6668 the sale of products of, or services rendered by the Authority at rates to be determined by the Authority
6669 for the purpose of providing for the payment of the expenses of the Authority;

6670 15. Make and enter into all contracts and agreements necessary or incidental to the performance
6671 of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including
6672 agreements with any person or federal agency;

6673 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
6674 experts, investment bankers, superintendents, managers, and such other employees and special agents as
6675 may be necessary and fix their compensation to be payable from funds made available to the Authority.
6676 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
6677 (§ 2.2-500 et seq.) of Title 2.2;

6678 17. Receive and accept from any federal or private agency, foundation, corporation, association,
6679 or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
6680 and accept from the Commonwealth or any state and any municipality, county, or other political
6681 subdivision thereof or from any other source aid or contributions of either money, property, or other things
6682 of value, to be held, used, and applied only for the purposes for which such grants and contributions may
6683 be made. All federal moneys accepted under this section shall be accepted and expended by the Authority
6684 upon such terms and conditions as are prescribed by the United States and as are consistent with state law,
6685 and all state moneys accepted under this section shall be expended by the Authority upon such terms and
6686 conditions as are prescribed by the Commonwealth;

6687 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
6688 business shall be transacted and the manner in which the powers of the Authority shall be exercised and
6689 its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority
6690 to any officer or employee of the Authority. The Board shall remain responsible for the performance of
6691 any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be
6692 accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate,
6693 the guidelines shall require that the Board receive summaries of actions taken. Such delegation or
6694 assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties
6695 and tasks;

6696 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the
6697 Authority's purposes or necessary or convenient to exercise its powers;

6698 20. Develop policies and procedures generally applicable to the procurement of goods, services,
6699 and construction, based upon competitive principles;

6700 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43
6701 of Title 2.2;

6702 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or
6703 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes
6704 of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
6705 therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease
6706 as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein,
6707 at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and
6708 on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property,
6709 real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the
6710 Authority on such terms and conditions as may be determined by the Board; and occupy and improve any
6711 land or building required for the purposes of this subtitle;

6712 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be
6713 considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying,
6714 blending, and processing plants;

6715 24. Appoint every agent and employee required for its operations, require any or all of them to
6716 give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the
6717 services of experts and professionals;

6718 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the
6719 production of records, memoranda, papers, and other documents before the Board or any agent of the
6720 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member
6721 or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony
6722 thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved.
6723 The Board may enter into consent agreements and may request and accept from any applicant or licensee
6724 a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary
6725 action. Any such consent agreement shall include findings of fact and may include an admission or a
6726 finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall
6727 not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et
6728 seq.), but may be considered by the Board in future disciplinary proceedings;

6729 26. Make a reasonable charge for preparing and furnishing statistical information and compilations
6730 to persons other than (i) officials, including court and police officials, of the Commonwealth and of its
6731 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
6732 interest in obtaining the information requested if such information is not to be used for commercial or
6733 trade purposes;

6734 27. Assess and collect civil penalties and civil charges for violations of this subtitle and Board
6735 regulations;

6736 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief
6737 Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Impose reasonable restrictions on advertising in accordance with the provisions of this subtitle;

32. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

§ 4.1-605. Additional powers; mediation; alternative dispute resolution; confidentiality.

A. As used in this section:

"Appropriate case" means any alleged license violation or objection to the application for a license in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

6765 D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act
6766 (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i)
6767 standards and procedures for the conduct of mediation and dispute resolution proceedings, including an
6768 opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the
6769 appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle
6770 contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other
6771 materials.

6772 E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute
6773 resolution proceeding shall govern all such proceedings held pursuant to this section except where the
6774 Board uses or relies on information obtained in the course of such proceeding in granting a license,
6775 suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However,
6776 a consent agreement signed by the parties shall not be confidential.

6777 **§ 4.1-606. Regulations of the Board.**

6778 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the
6779 general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and
6780 to prevent the illegal cultivation, manufacture, sale, and testing of marijuana and marijuana products. The
6781 Board may amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed
6782 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

6783 B. The Board shall promulgate regulations that:

6784 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee,
6785 including security requirements to include lighting, physical security, and alarm requirements, provided
6786 that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

6787 2. Establish requirements for securely transporting marijuana between marijuana establishments;

6788 3. Establish sanitary standards for retail marijuana product preparation;

6789 4. Establish a testing program for retail marijuana and retail marijuana products pursuant to
6790 Chapter 14 (§ 4.1-1400 et seq.);

6791 5. Establish an application process for licensure as a marijuana establishment pursuant to this
6792 subtitle in a way that, when possible, prevents disparate impacts on historically disadvantaged
6793 communities;

6794 6. Establish requirements for health and safety warning labels to be placed on retail marijuana and
6795 retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the
6796 provisions of this subtitle;

6797 7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, which shall not
6798 exceed (i) five milligrams per serving for edible marijuana products and where practicable an equivalent
6799 amount for other marijuana products or (ii) 50 milligrams per package for edible marijuana products and
6800 where practicable an equivalent amount for other marijuana products. Such regulations may include other
6801 product and dispensing limitations on tetrahydrocannabinol;

6802 8. Establish requirements for the form, content, and retention of all records and accounts by all
6803 licensees;

6804 9. Provide alternative methods for licensees to maintain and store business records that are subject
6805 to Board inspection, including methods for Board-approved electronic and offsite storage;

6806 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana
6807 stores in the community and (ii) metrics that have similarly shown an association with negative
6808 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall
6809 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

6810 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing
6811 officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee
6812 at the address on record with the Board by certified mail, return receipt requested, and by regular mail;

6813 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant
6814 to subsection C of § 4.1-1002;

6815 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail
6816 marijuana or retail marijuana products, not inconsistent with the provisions of this subtitle, so that such
6817 advertising does not encourage or otherwise promote the consumption of retail marijuana or retail

marijuana products by persons to whom retail marijuana or retail marijuana products may not be lawfully sold. Such regulations shall be promulgated in accordance with § 4.1-1404;

14. Establish criteria by which to evaluate social equity license applicants, which shall be an applicant who has lived for at least 12 months in the Commonwealth and is either (i) an applicant with at least 66 percent ownership by a person or persons who have been arrested for, convicted of, or adjudicated delinquent for any marijuana offenses that are eligible for expungement pursuant to § 19.2-392.2 or 19.2-392.2:1; (ii) an applicant with at least 66 percent ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been arrested for, convicted of, or adjudicated delinquent for any marijuana offenses that are eligible for expungement under § 19.2-392.2 or 19.2-392.2:1; (iii) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the past five years in a jurisdiction that is determined by the Board to have been disproportionately policed for marijuana crimes; (iv) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the last five years in a jurisdiction determined by the Board as economically distressed; (v) for applicants with a minimum of 10 full-time employees, an applicant with at least 66 percent of current employees who meet the qualifications in clauses (i), (ii), or (iii); (vi) an applicant with at least 66 percent ownership by a person or persons who attended a historically black college or university; or (vii) an applicant that distributes at least 50 percent of its gross profit to owners or employees who are members of a racial or ethnic group that has been disproportionately policed for marijuana crimes;

15. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana crimes and (ii) which jurisdictions are economically distressed;

16. Establish standards and requirements for (i) any preference in the licensing process for qualified social equity applicants, (ii) what percentage of application or license fees are waived for a qualified social equity applicant, and (iii) a low-interest business loan program for qualified social equity applicants; and

17. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal cultivation of marijuana that promote personal and public safety, including child protection, and discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor.

C. The Board may promulgate regulations that:

1. Limit the number of licenses issued by type or class to operate a marijuana establishment; however, the Board shall not limit the number of Class B marijuana cultivation facility licenses issued.

2. Provide for the issuance of additional classes of state license to a marijuana establishment.

3. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and 4.1-1004, including method of filing a return, information required on a return, and form of payment.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

G. With regard to regulations governing licensees that have been issued a permit by the Board of Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been found to be in compliance with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in scope than similar regulations promulgated pursuant to this subtitle.

§ 4.1-607. Board membership; terms; compensation.

A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth

6870 for a period of at least three years next preceding his appointment, and his continued residency shall be a
6871 condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related
6872 field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the
6873 direct management, supervision, or control of a business or legal affairs. Appointees shall reflect the racial,
6874 ethnic, and gender diversity of the Commonwealth. Appointees shall be subject to a background check in
6875 accordance with § 4.1-609.

6876 B. After the initial staggering of terms, members shall be appointed for a term of five years. All
6877 members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for
6878 the unexpired term. No member appointed by the Governor shall be eligible to serve more than two
6879 consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive
6880 terms. Members of the Board may be removed from office by the Governor for cause, including the
6881 improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty,
6882 absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in
6883 the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

6884 C. The Governor shall appoint the chairman and vice-chairman of the Board from among the
6885 membership of the Board. The Board may elect other subordinate officers, who need not be members of
6886 the Board. The Board may also form committees and advisory councils, which may include
6887 representatives who are not members of the Board, to undertake more extensive study and discussion of
6888 the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the
6889 Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the
6890 rights and perform all duties of the Authority.

6891 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings
6892 may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon
6893 the written request of a majority of the Board members.

6894 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of
6895 expenses for the performance of their official duties as set forth in the general appropriation act for
6896 members of the House of Delegates when the General Assembly is not in session, except that the chairman

6897 of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the
6898 performance of his official duties as set forth in the general appropriation act for a member of the Senate
6899 of Virginia when the General Assembly is not in session.

6900 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.)
6901 shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees
6902 of the Authority.

6903 **§ 4.1-608. Appointment, salary, and powers of Chief Executive Officer; appointment of**
6904 **confidential assistant to the Chief Executive Officer.**

6905 A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed
6906 by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief
6907 Executive Officer shall not be a member of the Board, shall hold, at a minimum, a baccalaureate degree
6908 in business or a related field of study, and shall possess a minimum of seven years of demonstrated
6909 experience or expertise in the direct management, supervision, or control of a business or legal affairs.
6910 The Chief Executive Officer shall receive such compensation as determined by the Board and approved
6911 by the Governor, including any performance bonuses or incentives as the Board deems advisable. The
6912 Chief Executive Officer shall be subject to a background check in accordance with § 4.1-609. The Chief
6913 Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed
6914 upon him by law and (ii) meet performance measures or targets set by the Board and approved by the
6915 Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including
6916 the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct,
6917 neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set
6918 by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as
6919 established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of
6920 the Governor.

6921 B. The Chief Executive Officer shall devote his full time to the performance of his official duties
6922 and shall not be engaged in any other profession or occupation.

6923 C. The Chief Executive Officer shall supervise and administer the operations of the Authority in
6924 accordance with this subtitle.

6925 D. The Chief Executive Officer shall:

6926 1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the
6927 Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;

6928 2. Exercise and perform such powers and duties as may be delegated to him by the Board or as
6929 may be conferred or imposed upon him by law;

6930 3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer
6931 as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer,
6932 subject to the Board's approval; and

6933 4. Make recommendations to the Board for legislative and regulatory changes.

6934 E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of
6935 the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the
6936 local or state level or cause such a contribution to be made on his behalf.

6937 F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also
6938 appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-
6939 will basis.

6940 **§ 4.1-609. Background investigations of Board members and Chief Executive Officer.**

6941 All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a
6942 condition of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation
6943 for a national criminal history records search and to the Department of State Police for a Virginia criminal
6944 history records search. The Department of State Police shall be reimbursed by the Authority for the cost
6945 of investigations conducted pursuant to this section. No person shall be appointed to the Board or
6946 appointed by the Board who (i) has defrauded or attempted to defraud any federal, state, or local
6947 government or governmental agency or authority by making or filing any report, document, or tax return
6948 required by statute or regulation that is fraudulent or contains a false representation of a material fact; (ii)
6949 has willfully deceived or attempted to deceive any federal, state, or local government or governmental

agency or governmental authority by making or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has been convicted of (a) a felony or a crime involving moral turpitude or (b) a violation of any law applicable to the manufacture, transportation, possession, use, or sale of marijuana within the five years immediately preceding appointment.

§ 4.1-610. Financial interests of Board, employees, and family members prohibited.

No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise have any financial interest, direct or indirect, in any licensee subject to the provisions of this subtitle or in any entity that has submitted an application for a license under Chapter 8 (§ 4.1-800 et seq.). No Board member and no spouse or immediate family member of a Board member shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

§ 4.1-611. Seed-to-sale tracking system.

To ensure that no retail marijuana or retail marijuana products grown or processed by a marijuana establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and maintain a seed-to-sale tracking system that tracks retail marijuana from either the seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a customer at a retail marijuana store.

§ 4.1-612. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid in accordance with § 4.1-614.

§ 4.1-613. Forms of accounts and records; audit; annual report.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs,

6977 including lease payments, major acquisitions of services and tangible or intangible property, any material
6978 changes to the policies and procedures issued by the Authority related to procurement or personnel, and
6979 any proposed marketing activities.

6980 B. Notwithstanding any other provision of law, in exercising any power conferred under this
6981 subtitle, the Authority may implement and maintain independent payroll and nonpayroll disbursement
6982 systems. These systems and related procedures shall be subject to review and approval by the State
6983 Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail
6984 on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts'
6985 financial management system or its successor system. Such reports shall be made in accordance with
6986 policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement
6987 system shall include all disbursements and expenditures, other than payroll. Such disbursements and
6988 expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments,
6989 petty cash, and interagency payments.

6990 **§ 4.1-614. Disposition of moneys collected by the Board.**

6991 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury,
6992 or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on
6993 account of salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as
6994 required by § 2.2-1802.

6995 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection
6996 C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i)
6997 the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and
6998 expenses incurred in the administration of this subtitle.

6999 B. The net profits derived under the provisions of this subtitle shall be transferred by the
7000 Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each
7001 quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may
7002 deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of
7003 \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on

the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in subsection A, net profits shall be appropriated in the general appropriation act as follows:

1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4;
3. Twenty-five percent to substance use disorder prevention and treatment programs; and
4. Five percent to public health programs.

C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local marijuana tax revenues collected under § 4.1-1003 and distributed pursuant to § 4.1-614 and all costs, expenses, and charges authorized by this section.

D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the locality in which they were collected. If revenues were collected from a marijuana establishment located in more than one locality by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality to which tax revenues are attributable.

On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged to the account of each such locality under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

§ 4.1-615. Leases and purchases of property by the Board.

The making of leases and the purchasing of real estate by the Board under the provisions of this subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Authority shall be

exempt from the provisions of § 2.2-1149 and from any rules, regulations, and guidelines of the Division of Engineering and Buildings in relation to leases of real property into which it enters.

§ 4.1-616. Exemptions from taxes or assessments.

The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this subtitle or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

§ 4.1-617. Exemption of Authority from personnel and procurement procedures; information systems; etc.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this subtitle. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this subtitle.

B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2.

7058 regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the
7059 Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding
7060 the review and the oversight by the Division of Engineering and Buildings of the Department of General
7061 Services of contracts for the construction of the Authority's capital projects and construction-related
7062 professional services under § 2.2-1132.

7063 C. The Authority (i) may purchase from and participate in all statewide contracts for goods and
7064 services, including information technology goods and services; (ii) shall use directly or by integration or
7065 interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed
7066 upon between the Authority and the Department of General Services; and (iii) shall post on the Department
7067 of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal,
7068 sole source award notices, and emergency award notices to ensure visibility and access to the Authority's
7069 procurement opportunities on one website.

7070 **§ 4.1-618. Reversion to the Commonwealth.**

7071 In the event of the dissolution of the Authority, all assets of the Authority, after satisfaction of
7072 creditors, shall revert to the Commonwealth.

7073 **§ 4.1-619. Certified mail; subsequent mail or notices may be sent by regular mail; electronic**
7074 **communications as alternative to regular mail; limitation.**

7075 A. Whenever in this subtitle the Board is required to send any mail or notice by certified mail and
7076 such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or
7077 notice that is sent by the Board may be sent by regular mail.

7078 B. Except as provided in subsection C, whenever in this subtitle the Board is required or permitted
7079 to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter
7080 8 (§ 4.1-800 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or
7081 official communication by email, text message, or other electronic means to the email address, telephone
7082 number, or other contact information provided to the Board by the licensee, provided that the Board retains
7083 sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate
7084 of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-903 to a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

§ 4.1-620. Reports and accounting systems of Board; auditing books and records.

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this subtitle. Additionally, the Board shall submit an annual report to the Governor, the General Assembly, the Chief Executive Officer, and the Advisory Board on or before December 15 each year, which shall contain:

1. The number of state licenses of each category issued pursuant to this subtitle;
2. Demographic information concerning the licensees;
3. A description of enforcement and disciplinary actions taken against licensees;
4. A statement of revenues and expenses related to the implementation, administration, and enforcement of this subtitle;
5. A statement showing the taxes collected under this subtitle during the year;
6. General information and remarks about the working of the cannabis control laws within the Commonwealth;
7. A description of the efforts undertaken by the Board to promote diverse business ownership within the cannabis industry; and
8. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

§ 4.1-621. Certain information not to be made public.

7112 Neither the Board nor its employees shall divulge any information regarding (i) financial reports
7113 or records required pursuant to this subtitle; (ii) the purchase orders and invoices for retail marijuana or
7114 retail marijuana products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected from,
7115 refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system
7116 maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis,
7117 to taxes collected pursuant to this subtitle and to purchase orders and invoices for retail marijuana or retail
7118 marijuana products filed with the Board by marijuana wholesaler licensees.

7119 Nothing contained in this section shall prohibit the use or release of such information or documents
7120 by the Board to any governmental or law-enforcement agency, or when considering the granting, denial,
7121 revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or
7122 permittee, nor shall this section prohibit the Board or its employees from compiling and disseminating to
7123 any member of the public aggregate statistical information pertaining to (a) tax collection, as long as such
7124 information does not reveal or disclose tax collection from any identified licensee; (b) the total amount of
7125 retail marijuana or retail marijuana products sales in the Commonwealth by marijuana wholesaler
7126 licensees collectively; or (c) the total amount of purchases or sales submitted by licensees, provided that
7127 such information does not identify the licensee.

7128 **§ 4.1-622. Criminal history records check required on certain employees; reimbursement of**
7129 **costs.**

7130 All persons hired by the Authority whose job duties involve access to or handling of the Authority's
7131 funds or merchandise shall be subject to a criminal history records check before, and as a condition of,
7132 employment.

7133 The Board shall develop policies regarding the employment of persons who have been convicted
7134 of a felony or a crime involving moral turpitude.

7135 The Department of State Police shall be reimbursed by the Authority for the cost of investigations
7136 conducted pursuant to this section.

7137 **§ 4.1-623. Employees of the Authority.**

Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, or disability. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.

§ 4.1-624. Police power of members, agents, and employees of Board.

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this subtitle and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

§ 4.1-625. Liability of Board members; suits by and against Board.

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

§ 4.1-626. Counsel for members, agents, and employees of Board.

If any member, agent, or employee of the Board shall be arrested, indicted, or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this subtitle are paid.

§ 4.1-627. Hearings; representation by counsel.

Any licensee or applicant for any license granted by the Board shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

§ 4.1-628. Hearings; allowances to witnesses.

Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for expenses as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such allowances shall be paid out of the fund from which other costs incurred by the Board are paid upon certification to the Comptroller.

§ 4.1-629. Local referendum to prevent establishment of retail marijuana stores.

A. A petition signed by qualified voters equal in number to at least 10 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater, may be filed with the circuit court of the county or city, or of the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the question of whether the operation of retail marijuana stores shall be prohibited within that jurisdiction. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The court order shall set the date for the referendum in conformity

7192 with the requirements of § 24.2-682, but in no event shall such date be more than 90 days from the date
7193 the order is issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of
7194 general circulation in the county, city, or town once a week for three consecutive weeks prior to the
7195 referendum.

7196 The question on the ballot shall be:

7197 "Shall the operation of retail marijuana stores be prohibited in _____ (name of county, city,
7198 or town)?"

7199 The referendum shall be ordered and held and the results certified as provided in § 24.2-684.
7200 Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to
7201 the Board and to the governing body of the county, city, or town.

7202 C. Once a referendum has been held, no other referendum on the same question shall be held in
7203 the county, city, or town within four years of the date of the prior referendum. However, a town shall not
7204 be proscribed from holding a referendum within such period although an election has been held in the
7205 county in which the town or a part thereof is located less than four years prior thereto.

7206 **§ 4.1-630. Effect of local option referenda.**

7207 A. If in any referendum held under the provisions of § 4.1-629 in any county, city, or town a
7208 majority of the qualified voters vote "Yes" on the question, then on and after the date of the order of the
7209 court setting forth the results of such referendum was entered of record, retail marijuana stores shall be
7210 prohibited in such county, city, or town.

7211 B. If in any such referendum held in any county, city, or town in which a majority of the qualified
7212 voters have previously voted to prohibit the operation of retail marijuana stores and in a subsequent
7213 election a majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-629,
7214 then such retail marijuana stores shall, in accordance with this subtitle, be allowed within the county, city,
7215 or town on and after 60 days from the day on which the order of the court setting forth the results of such
7216 election is entered of record.

7217 C. For the purpose of this section, when any referendum is held in any town, separate and apart
7218 from the county in which such town or a part thereof is located, such town shall be treated as being separate
7219 and apart from such county.

7220 **§ 4.1-631. Contests of local option referenda.**

7221 The regularity or legality of any referendum held pursuant to § 4.1-629 shall be subject to the
7222 inquiry, determination, and judgment of the circuit court that ordered the referendum. The court shall
7223 proceed upon the complaint of 15 or more qualified voters of the county, city, or town, filed within 30
7224 days after the date the results of the referendum are certified and setting out fully the grounds of contest.
7225 The complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654,
7226 and the judgment of the court entered of record shall be a final determination of the regularity and legality
7227 of the referendum.

7228 **§ 4.1-632. Local ordinances or resolutions regulating retail marijuana or retail marijuana**
7229 **products.**

7230 A. No county, city, or town shall, except as provided in § 4.1-633, adopt any ordinance or
7231 resolution that regulates or prohibits the cultivation, manufacture, possession, sale, wholesale distribution,
7232 handling, transportation, consumption, use, advertising, or dispensing of retail marijuana or retail
7233 marijuana products in the Commonwealth.

7234 B. However, the governing body of any county, city, or town may adopt an ordinance (i) that
7235 prohibits the acts described in § 4.1-1108, or the acts described in § 4.1-1109, and may provide a penalty
7236 for violation thereof and (ii) that regulates or prohibits the possession of opened retail marijuana or retail
7237 marijuana products containers in its local public parks, playgrounds, public streets, and any sidewalk
7238 adjoining any public street.

7239 C. Except as provided in this section, all local acts, including charter provisions and ordinances of
7240 counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the
7241 extent of such inconsistency.

7242 **§ 4.1-633. Local ordinances regulating time of sale of retail marijuana and retail marijuana**
7243 **products.**

in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or an industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.

The privilege of any licensee to cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products shall extend to such licensee and to all agents or employees of such licensee for the purpose of operating under such license. The licensee may be held liable for any violation of this subtitle or any Board regulation committed by such agents or employees in connection with their employment.

§ 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration; civil penalties.

A. Each license granted by the Board shall designate the place where the business of the licensee will be carried on. Except as provided in § 4.1-804, a separate license shall be required for each separate place of business.

B. No license shall be transferable from one person to another or from one location to another. The Board may permit a licensee to amend the classification of an existing license without complying with the posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce materially the privileges of an existing license. However, if (i) the Board determines that the amendment is a device to evade the provisions of this subtitle, (ii) a majority of the corporate stock of a retail marijuana store licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail marijuana store licensee, the Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a change of business, require the licensee to comply with any or all of the requirements of § 4.1-1000. If the Board fails to exercise its authority within the 30-day period, the licensee shall not be required to reapply for a license. The licensee shall submit such written notice to the secretary of the Board.

C. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries on the business for which the license is granted.

7296 D. The privileges conferred by any license granted by the Board shall continue until the last day
7297 of the twelfth month next ensuing or the last day of the designated month and year of expiration, except
7298 the license may be sooner terminated for any cause for which the Board would be entitled to refuse to
7299 grant a license or by operation of law, voluntary surrender, or order of the Board.

7300 The Board may grant licenses for one year or for multiple years, not to exceed three years, based
7301 on the fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be
7302 determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be
7303 refundable except as provided in § 4.1-1002. The Board may provide a discount for two-year or three-
7304 year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal year
7305 and shall not be altered or rescinded during such period.

7306 The Board may permit a licensee who fails to pay:

7307 1. The required license fee covering the continuation or reissuance of his license by midnight of
7308 the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable,
7309 to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made
7310 within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee,
7311 whichever is greater; and

7312 2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing
7313 notice and reapplying, provided payment of the fee is made within 45 days following the 30 days specified
7314 in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is
7315 greater.

7316 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

7317 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

7318 A. Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep complete,
7319 accurate, and separate records in accordance with Board regulations of all marijuana and marijuana
7320 products it purchased, manufactured, sold, or shipped.

7321 B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in
7322 accordance with Board regulations of all purchases of retail marijuana products, the prices charged such

7323 licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed retail
7324 marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board
7325 regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of retail
7326 marijuana products sold and the total price charged by it therefor. Except as otherwise provided in
7327 subsections D and E, such account need not give the names or addresses of the purchasers thereof, except
7328 as may be required by Board regulation.

7329 Notwithstanding the provisions of subsection F, electronic records of licensed retail marijuana
7330 stores may be stored off site, provided that such records are readily retrievable and available for electronic
7331 inspection by the Board or its special agents at the licensed premises. However, in the case that such
7332 electronic records are not readily available for electronic inspection on the licensed premises, the licensee
7333 may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a special
7334 agent of the Board within three business days or less, as determined by the Board, after a request is made
7335 to inspect the records.

7336 C. Every licensed marijuana cultivation facility shall keep complete, accurate, and separate records
7337 in accordance with Board regulations of all marijuana and marijuana products it purchased, manufactured,
7338 sold, or shipped.

7339 D. Every licensed marijuana testing facility shall keep complete, accurate, and separate records in
7340 accordance with Board regulations of all marijuana and marijuana products it developed, researched, or
7341 tested and the names and addresses of the licensees or persons who submitted the marijuana or marijuana
7342 product to the marijuana testing facility.

7343 E. The Board and its special agents shall be allowed free access during reasonable hours to every
7344 place in the Commonwealth and to the premises of every licensee or for the purpose of examining and
7345 inspecting such place and all records, invoices, and accounts therein.

7346 For the purposes of a Board inspection of the records of any retail marijuana store licensees,
7347 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not
7348 open to the public substantially during the same hours, "reasonable hours" means the business hours when
7349 the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records

are not available for inspection, the licensee shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

CHAPTER 8.

ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

§ 4.1-800. Marijuana cultivation facility license.

A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize the licensee to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to cultivate, label, and package retail marijuana on premises approved by the Board; to transfer possession of and to sell retail marijuana to marijuana manufacturing facilities, marijuana wholesalers, and other marijuana cultivation facilities; and to sell immature marijuana plants and seeds to consumers for the purpose of cultivating marijuana at home for personal use:

1. Class A cultivation facility license, which shall authorize the licensee to cultivate not more than a certain number of marijuana plants or marijuana plants in an area not larger than a certain number of square feet, as determined by the Board;

2. Class B cultivation facility license, which shall authorize the licensee to cultivate marijuana plants with a tetrahydrocannabinol concentration of no more than one percent, as determined post-decarboxylation.

B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana manufacturing facility, a marijuana testing facility, a marijuana wholesaler, another marijuana cultivation facility, or a consumer or is disposed of or destroyed.

§ 4.1-801. Marijuana manufacturing facility license.

A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the licensee to purchase or take possession of retail marijuana from a marijuana cultivation facility, a marijuana wholesaler, or another marijuana manufacturing facility; to manufacture, label, and package retail marijuana and retail marijuana products on premises approved by the Board; and to transfer

7377 possession and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail
7378 marijuana stores, and other marijuana manufacturing facilities.

7379 B. Except as otherwise provided in this subtitle, retail marijuana products shall be prepared on a
7380 licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail
7381 marijuana products and using equipment that is used exclusively for the manufacture and preparation of
7382 retail marijuana or retail marijuana products.

7383 C. All areas within the licensed premises of a marijuana manufacturing facility in which retail
7384 marijuana and retail marijuana products are manufactured shall meet all sanitary standards specified in
7385 regulations adopted by the Board. A marijuana manufacturing facility that manufactures an edible
7386 marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and
7387 any regulations adopted pursuant thereto.

7388 D. In accordance with the requirements of § 4.1-611, a marijuana manufacturing facility licensee
7389 shall track the retail marijuana it uses in its manufacturing processes from the point the retail marijuana is
7390 delivered or transferred to the marijuana manufacturing facility by a marijuana cultivation facility to the
7391 point the retail marijuana or retail marijuana products produced using the retail marijuana are delivered or
7392 transferred to another marijuana manufacturing facility, a marijuana testing facility, a marijuana
7393 wholesaler, or a retail marijuana store, or are disposed of or destroyed.

7394 **§ 4.1-802. Marijuana testing facility license.**

7395 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to
7396 develop, research, or test retail marijuana, retail marijuana products, and other substances.

7397 B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana
7398 products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail marijuana
7399 or retail marijuana product for personal use as authorized under § 4.1-1100.

7400 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a
7401 marijuana testing facility from developing, researching, or testing substances that are not marijuana or
7402 marijuana products for that facility or for another person.

7403 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and
7404 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for
7405 Standardization by a third-party accrediting body.

7406 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall
7407 track all marijuana and marijuana products it receives from a licensee for testing purposes from the point
7408 at which the marijuana or marijuana products are delivered or transferred to the marijuana testing facility
7409 to the point at which the marijuana or marijuana products are disposed of or destroyed.

7410 F. A person that has an interest in a marijuana testing facility license shall not have any interest in
7411 a licensed marijuana cultivation facility, a licensed marijuana manufacturing facility, a licensed marijuana
7412 wholesaler, or a licensed retail marijuana store.

7413 **§ 4.1-803. Marijuana wholesaler license.**

7414 A. The Board may issue marijuana wholesaler licenses, which shall authorize the licensee to
7415 purchase or take possession of retail marijuana and retail marijuana products from a marijuana cultivation
7416 facility, a marijuana manufacturing facility, or another marijuana wholesaler; and to transfer possession
7417 and sell or resell retail marijuana or retail marijuana products to a marijuana manufacturing facility, a
7418 retail marijuana store, or another marijuana wholesaler.

7419 B. All areas within the licensed premises of a marijuana wholesaler in which retail marijuana and
7420 retail marijuana products are stored shall meet all sanitary standards specified in regulations adopted by
7421 the Board.

7422 C. In accordance with the requirements of § 4.1-611, a marijuana wholesaler licensee shall track
7423 the retail marijuana and retail marijuana products from the point at which the retail marijuana or retail
7424 marijuana products are delivered or transferred to the retail marijuana store by a marijuana cultivation
7425 facility, a marijuana manufacturing facility, or another marijuana wholesaler to the point at which the
7426 retail marijuana or retail marijuana products are sold to a retail marijuana store, delivered or transferred
7427 to a marijuana testing facility, or disposed of or destroyed.

7428 **§ 4.1-804. Retail marijuana store license.**

7429 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to
7430 purchase or take possession of retail marijuana from a marijuana cultivation facility; to purchase or take
7431 possession of retail marijuana and retail marijuana products from a marijuana wholesaler or marijuana
7432 manufacturing facility; and to receive possession and sell retail marijuana and retail marijuana products
7433 to consumers on premises approved by the Board.

7434 B. Retail marijuana stores shall be operated in accordance with the following provisions:

7435 1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

7436 2. A retail marijuana store shall be permitted to sell retail marijuana and retail marijuana products
7437 to consumers only in a direct, face-to-face exchange. Such store shall not be permitted to sell marijuana
7438 or marijuana products using:

7439 a. An automated dispensing or vending machine;

7440 b. A drive-through sales window;

7441 c. An Internet-based sales platform; or

7442 d. A delivery service.

7443 3. A retail marijuana store shall not be permitted to sell more than one ounce of marijuana or an
7444 equivalent amount of marijuana product as determined by regulation promulgated by the Board during a
7445 single transaction to one person.

7446 4. A retail marijuana store may sell any other consumable or nonconsumable products that it is
7447 otherwise permitted by law to sell, excluding tobacco or alcohol.

7448 5. A retail marijuana store shall not:

7449 a. Give away any retail marijuana or retail marijuana products;

7450 b. Sell retail marijuana or retail marijuana products to any person when at the time of such sale he
7451 knows or has reason to believe that the person attempting to purchase the retail marijuana or retail
7452 marijuana product is intoxicated or is attempting to purchase retail marijuana for someone younger than
7453 21 years of age; or

7454 c. Employ or allow to volunteer any person younger than 21 years of age.

6. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all retail marijuana and retail marijuana products from the point at which the retail marijuana or retail marijuana products are delivered or transferred to the retail marijuana store by a marijuana cultivation facility, a marijuana manufacturing facility, or a marijuana wholesaler to the point at which the retail marijuana or retail marijuana products are sold to a consumer, delivered or transferred to a marijuana testing facility, or disposed of or destroyed.

7. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2.

C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.

D. Each retail marijuana store licensee shall prominently display and make available for dissemination to consumers Board-approved information regarding the potential risks of marijuana use.

E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees educating them on how to discuss the potential risks of marijuana use with consumers.

F. Any retail marijuana store license granted to a cannabis dispensing facility or pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act shall authorize the licensee to exercise any privileges set forth in subsection A at the places of business designated in the licenses, which may include up to five additional retail establishments of the licensee.

§ 4.1-805. Multiple licenses awarded to one person permitted; exceptions.

A. As used in this section, "interest" means an equity ownership interest or a partial equity ownership interest or any other type of financial interest, including but not limited to being an investor or serving in a management position.

7481 B. A person shall be permitted to possess one or any combination of the following licenses:
7482 marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler
7483 license, or retail marijuana store license. However, no licensee who has been issued either a marijuana
7484 cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or
7485 retail marijuana store license shall be issued a marijuana testing facility license or have any interest in a
7486 marijuana testing facility licensee. Additionally, no licensee who has been issued a marijuana testing
7487 facility license shall be issued a marijuana cultivation facility license, marijuana manufacturing facility
7488 license, marijuana wholesaler license, or retail marijuana store license or have any interest in a marijuana
7489 cultivation facility licensee, marijuana manufacturing facility licensee, marijuana wholesaler licensee, or
7490 retail marijuana store licensee.

7491 C. Additionally, no person shall be permitted to have any interest in more than five marijuana
7492 cultivation facility licensees. However, the Board may approve an application from a person who holds
7493 an interest in more than five marijuana cultivation facility licensees if, after January 1, 2024, the Board
7494 adopts a regulation authorizing a person to hold an interest in more than five marijuana cultivation facility
7495 licensees.

7496 D. Any person who wishes to possess a license in more than one license category pursuant to
7497 subsection B shall pay a \$1 million fee to the Board. The Board shall allocate such fees to the following:
7498 (i) the Virginia Cannabis Equity Loan Fund, (ii) the Virginia Cannabis Equity Reinvestment Fund, or (iii)
7499 a program, as determined by the Board, that provides job training services to persons recently incarcerated.

7500 In addition, any licensee who wishes to possess more than one license pursuant to subsection B
7501 shall submit a diversity, equity, and inclusion plan to the Cannabis Business Equity and Diversity Support
7502 Team (the Support Team) for approval, and upon approval shall implement such plan in accordance with
7503 the requirements set by the Support Team.

7504 **§ 4.1-806. Temporary permits required in certain instances.**

7505 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure,
7506 secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board and
7507 who has become lawfully entitled to the possession of the licensed premises to continue to operate the

7508 marijuana establishment to the same extent as a person holding such licenses for a period not to exceed
7509 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall
7510 confer the privileges of any licenses held by the previous owner to the extent determined by the Board.
7511 Such temporary permit may be issued in advance, conditioned on the requirements in this subsection.

7512 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board
7513 for any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a
7514 temporary permit shall be effective upon service of the order of revocation upon the permittee or upon the
7515 expiration of three business days after the order of the revocation has been mailed to the permittee at either
7516 his residence or the address given for the business in the permit application. No further notice shall be
7517 required.

7518 **§ 4.1-807. Licensee shall maintain possession of premises.**

7519 As a condition of licensure, a licensee shall at all times maintain possession of the licensed
7520 premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a
7521 lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of
7522 the premises. If the licensee fails to maintain possession of the licensed premises, the license shall be
7523 revoked by the Board.

7524 **§ 4.1-808. Use or consumption of marijuana or marijuana products on premises of licensee**
7525 **by licensee, agent, or employee.**

7526 No marijuana or marijuana products may be used or consumed on the premises of a licensee by
7527 the licensee or any agent or employee of the licensee, except for certain sampling for quality control
7528 purposes that may be permitted by Board regulation.

7529 **§ 4.1-809. Conditions under which the Board may refuse to grant licenses.**

7530 The Board may refuse to grant any license if it has reasonable cause to believe that:

7531 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant
7532 is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if
7533 the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital

7534 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10
7535 percent or more of the membership interest of the limited liability company:

7536 a. Is not 21 years of age or older;
7537 b. Is not a resident of the Commonwealth;
7538 c. Has been convicted in any court of any crime or offense involving moral turpitude under the
7539 laws of any state or of the United States within seven years of the date of the application or has not
7540 completed all terms of sentencing and probation resulting from any such felony conviction;

7541 d. Knowingly employs someone younger than 21 years of age;
7542 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have
7543 ownership interests in the business that have not been disclosed;

7544 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
7545 proposed to be licensed;

7546 g. Has misrepresented a material fact in applying to the Board for a license;
7547 h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or
7548 governmental agency or authority, by making or filing any report, document, or tax return required by
7549 statute or regulation that is fraudulent or contains a false representation of a material fact; or has willfully
7550 deceived or attempted to deceive the Board, or any federal, state, or local government or governmental
7551 agency or authority, by making or maintaining business records required by statute or regulation that are
7552 false or fraudulent;

7553 i. Is violating or allowing the violation of any provision of this subtitle in his establishment at the
7554 time his application for a license is pending;

7555 j. Is a police officer with police authority in the political subdivision within which the
7556 establishment designated in the application is located;

7557 k. Is a manufacturer, distributor, or retailer of alcoholic beverages licensed under Chapter 8 (§ 4.1-
7558 800 et seq.) of Title 4.1 or a retailer of tobacco or tobacco products; or

7559 l. Is physically unable to carry on the business for which the application for a license is filed or has
7560 been adjudicated incapacitated.

7561 2. The place to be occupied by the applicant:

7562 a. Does not conform to the requirements of the governing body of the county, city, or town in
7563 which such place is located with respect to sanitation, health, construction, or equipment, or to any similar
7564 requirements established by the laws of the Commonwealth or by Board regulation;

7565 b. Is so located that granting a license and operation thereunder by the applicant would result in
7566 violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local
7567 ordinances relating to peace and good order;

7568 c. Is so located with respect to any place of religious worship; hospital; public, private, or parochial
7569 school or institution of higher education; public or private playground or other similar recreational facility;
7570 substance use disorder treatment facility; or federal, state, or local government-operated facility that the
7571 operation of such place under such license will adversely affect or interfere with the normal, orderly
7572 conduct of the affairs of such facilities or institutions;

7573 d. Is so located with respect to any residence or residential area that the operation of such place
7574 under such license will adversely affect real property values or substantially interfere with the usual
7575 quietude and tranquility of such residence or residential area;

7576 e. Is located within 1,000 feet of an existing retail marijuana store; or

7577 f. Under a retail marijuana store license, is so constructed, arranged, or illuminated that law-
7578 enforcement officers and special agents of the Board are prevented from ready access to and reasonable
7579 observation of any room or area within which retail marijuana or retail marijuana products are to be sold.

7580 Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or
7581 premises until the final stage of the license approval process.

7582 3. The number of licenses existing in the locality is such that the granting of a license is detrimental
7583 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall
7584 consider the (i) criteria established by the Board to evaluate new licensees based on the density of retail
7585 marijuana stores in the community; (ii) character of, population of, number of similar licenses, and number
7586 of all licenses existent in the particular county, city, or town and the immediate neighborhood concerned;
7587 (iii) effect that a new license may have on such county, city, town, or neighborhood in conforming with

the purposes of this subtitle; and (iv) objections, if any, that may have been filed by a local governing body or local residents.

4. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political subdivision thereof that warrants refusal by the Board to grant any license.

5. The Board is not authorized under this subtitle to grant such license.

§ 4.1-810. Conditions under which the Board shall refuse to grant licenses.

The Board shall refuse to grant any license to any member or employee of the Board or to any corporation or other business entity in which such member or employee is a stockholder or has any other economic interest.

Whenever any other elected or appointed official of the Commonwealth or any political subdivision thereof applies for such a license or continuance thereof, he shall state on the application the official position he holds, and whenever a corporation or other business entity in which any such official is a stockholder or has any other economic interest applies for such a license, it shall state on the application the full economic interests of each such official in such corporation or other business entity.

§ 4.1-811. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.

A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. The Board may refuse a hearing on any application for the granting of any retail marijuana store license, provided that such:

1. License for the applicant has been refused or revoked within a period of 12 months;

2. License for any premises has been refused or revoked at that location within a period of 12 months; or

3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a violation of this subtitle.

C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the Board may refuse a hearing on an application for a new license until after the date on which the suspension period would have been executed had the license not have been permitted to expire.

CHAPTER 9.

ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

§ 4.1-900. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

7641 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
7642 other persons have ownership interests in the business that have not been disclosed;

7643 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
7644 conducted under the license granted by the Board;

7645 f. Has been intoxicated or under the influence of some self-administered drug while upon the
7646 licensed premises;

7647 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
7648 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or
7649 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

7650 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon
7651 such licensed premises;

7652 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana
7653 product except as provided under this subtitle;

7654 j. Is physically unable to carry on the business conducted under such license or has been
7655 adjudicated incapacitated;

7656 k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

7657 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has
7658 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or
7659 use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled
7660 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)
7661 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
7662 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
7663 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to
7664 any conduct related to the operation of the licensed business that facilitates the commission of any of the
7665 offenses set forth herein;

7666 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
7667 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion

of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;

n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises; or

o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of the United States by prices charged or otherwise.

7694 4. Any cause exists for which the Board would have been entitled to refuse to grant such license
7695 had the facts been known.

7696 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
7697 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
7698 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
7699 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction
7700 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
7701 plan approved by the same locality to settle the outstanding liability.

7702 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions
7703 of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the
7704 licensed premises in the Commonwealth.

7705 7. Any other cause authorized by this subtitle.

7706 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

7707 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the
7708 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or
7709 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily
7710 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises
7711 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
7712 of public property immediately adjacent to the licensed premises, and the Board finds that there exists a
7713 continuing threat to public safety and that summary suspension of the license or permit is justified to
7714 protect the health, safety, or welfare of the public.

7715 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall
7716 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of
7717 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the
7718 licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation.
7719 Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period,
7720 the licensee may petition the Board for a restricted license pending the results of the formal investigation

and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within five days of the completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately upon service.

E. This section shall not apply to temporary permits granted under § 4.1-806.

§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.

The Board shall suspend or revoke any license if it finds that:

1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent.

§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.

7748 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
7749 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
7750 Administrative Process Act (§ 2.2-4000 et seq.).

7751 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
7752 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
7753 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
7754 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
7755 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
7756 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
7757 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
7758 upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against
7759 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
7760 of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought
7761 within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

7762 If the Board fails to provide for inspection or copying under this section for the licensee after a
7763 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
7764 have lawfully been entitled to inspect or copy under this section.

7765 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall
7766 be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such
7767 review shall extend to the entire evidential record of the proceedings provided by the Board in accordance
7768 with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the
7769 court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be
7770 suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither
7771 mandamus nor injunction shall lie in any such case.

7772 B. In suspending any license the Board may impose, as a condition precedent to the removal of
7773 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
7774 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose

and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation. However, if the violation involved selling retail marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail marijuana products or allowing consumption of retail marijuana or retail marijuana products, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

7801 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
7802 civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to
7803 its employees marijuana seller training certified in advance by the Board;

7804 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
7805 license and the civil charge acceptable in lieu of such suspension; and

7806 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
7807 licensee has had no prior violations within five years immediately preceding the date of the violation. No
7808 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this
7809 subtitle or Board regulations.

7810 **§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana**
7811 **products on hand; termination.**

7812 A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
7813 any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

7814 1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana
7815 products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the
7816 Board; or

7817 2. Provided to the Virginia State Police to be destroyed.

7818 B. All retail marijuana or retail marijuana products owned by or in the possession of any person
7819 whose license is suspended or revoked shall be disposed of by such person in accordance with the
7820 provisions of this section within 60 days from the date of such suspension or revocation.

7821 C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
7822 persons whose licenses have been terminated other than by suspension or revocation may be disposed of
7823 in accordance with subsection A within such time as the Board deems proper. Such period shall not be
7824 less than 60 days.

7825 D. All retail marijuana or retail marijuana products owned by or remaining in the possession of
7826 any person described in subsection A or C after the expiration of such period shall be deemed contraband
7827 and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1304.

7828 CHAPTER 10.

7829 ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

7830 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

7831 A. Every person intending to apply for any license authorized by this subtitle shall file with the
7832 Board an application on forms provided by the Board and a statement in writing by the applicant swearing
7833 and affirming that all of the information contained therein is true.

7834 Applicants for licenses for establishments that are otherwise required to obtain a food
7835 establishment permit from the Department of Health or an inspection by the Department of Agriculture
7836 and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending
7837 application for such permit, or proof of a pending request for such inspection. If the applicant provides a
7838 copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending
7839 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a
7840 pending application or inspection, such license shall authorize the licensee to purchase retail marijuana or
7841 retail marijuana products in accordance with the provisions of this subtitle; however, the licensee shall not
7842 sell or serve retail marijuana or retail marijuana products until a permit is issued or an inspection is
7843 completed.

7844 B. In addition, each applicant for a license under the provisions of this subtitle shall post a notice
7845 of his application with the Board on the front door of the building, place, or room where he proposes to
7846 engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size
7847 and contain such information as required by the Board, including a statement that any objections shall be
7848 submitted to the Board not more than 30 days following initial posting of the notice required pursuant to
7849 this subsection.

7850 The applicant shall also cause notice to be published at least once a week for two consecutive
7851 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein
7852 such applicant proposes to engage in such business. Such notice shall contain such information as required
7853 by the Board, including a statement that any objections to the issuance of the license be submitted to the
7854 Board not later than 30 days from the date of the initial newspaper publication.

7855 The Board shall conduct a background investigation, to include a criminal history records search,
7856 which may include a fingerprint-based national criminal history records search, on each applicant for a
7857 license. However, the Board may waive, for good cause shown, the requirement for a criminal history
7858 records search and completed personal data form for officers, directors, nonmanaging members, or limited
7859 partners of any applicant corporation, limited liability company, or limited partnership. In considering
7860 criminal history record information, the Board shall not disqualify an applicant because of a past
7861 conviction for a marijuana-related offense.

7862 The Board shall notify the local governing body of each license application through the town
7863 manager, city manager, county administrator, or other designee of the locality. Local governing bodies
7864 shall submit objections to the granting of a license within 30 days of the filing of the application.

7865 C. Each applicant shall pay the required application fee at the time the application is filed, except
7866 that such fee shall be waived or discounted for qualified social equity applicants pursuant to regulations
7867 promulgated by the Board. The license application fee shall be determined by the Board and shall be in
7868 addition to the actual cost charged to the Department of State Police by the Federal Bureau of Investigation
7869 or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of
7870 Investigation or the Central Criminal Records Exchange for each criminal history records search required
7871 by the Board. Application fees shall be in addition to the state license fee required pursuant to § 4.1-1001
7872 and shall not be refunded.

7873 D. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,
7874 all licensees shall file and maintain with the Board a current, accurate record of the information required
7875 by the Board pursuant to subsection A and notify the Board of any changes to such information in
7876 accordance with Board regulations.

7877 E. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the
7878 Board. Such permits shall confer upon their holders no authority to make solicitations in the
7879 Commonwealth as otherwise provided by law.

7880 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
7881 for applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent
7882 and multiplied by the number of months for which the permit is granted.

7883 F. The Board shall have the authority to increase state license fees. The Board shall set the amount
7884 of such increases on the basis of the consumer price index and shall not increase fees more than once every
7885 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all
7886 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that
7887 would be required for any license affected by the Board's proposed fee increases. Such notice shall be
7888 provided on or before November 1 in any year in which the Board has decided to increase state license
7889 fees, and such increases shall become effective July 1 of the following year.

7890 **§ 4.1-1001. Fees for state licenses.**

7891 A. The annual fees on state licenses shall be determined by the Board.

7892 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall
7893 be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by
7894 the number of months in the license period, and then increased by five percent. Such fee shall not be
7895 refundable, except as provided in § 4.1-1002.

7896 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state
7897 restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this
7898 subtitle, shall be liable to state merchants' license taxation and other state taxation.

7899 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license
7900 purchased in person from the Board if such license is available for purchase online.

7901 **§ 4.1-1002. Refund of state license fee.**

7902 A. The Board may correct erroneous assessments made by it against any person and make refunds
7903 of any amounts collected pursuant to erroneous assessments, or collected as fees on licenses, that are
7904 subsequently refused or application therefor withdrawn, and to allow credit for any license fees paid by
7905 any licensee for any license that is subsequently merged or changed into another license during the same

7906 license period. No refund shall be made of any such amount, however, unless made within three years
7907 from the date of collection of the same.

7908 B. In any case where a licensee has changed its name or form of organization during a license
7909 period without any change being made in its ownership, and because of such change is required to pay an
7910 additional license fee for such period, the Board shall refund to such licensee the amount of such fee so
7911 paid in excess of the required license fee for such period.

7912 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees
7913 of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the
7914 license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or
7915 similar natural disaster or phenomenon.

7916 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out
7917 of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

7918 **§ 4.1-1003. Marijuana tax; exceptions.**

7919 A. A tax of 21 percent is levied on the sale in the Commonwealth of any retail marijuana, retail
7920 marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and
7921 non-retail marijuana products. The tax shall be in addition to any tax imposed under Chapter 6 (§ 58.1-
7922 600 et seq.) of Title 58.1 or any other provision of federal, state, or local law.

7923 B. The tax shall not apply to any sale:

7924 1. From a marijuana establishment to another marijuana establishment.

7925 2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-
7926 3442.5 et seq.) of the Drug Control Act.

7927 3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§
7928 3.2-4112 et seq.) of Title 3.2.

7929 4. Of industrial hemp extract or food containing an industrial hemp extract under the provisions of
7930 Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2.

7931 C. All revenues remitted to the Authority under this section shall be disposed of as provided in §
7932 4.1-614.

§ 4.1-1004. Optional local marijuana tax.

A. Any locality that has by referendum authorized the operation of retail marijuana stores may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003. The tax shall be in addition to any local sales tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under § 4.1-1003.

B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this section shall not apply within the limits of the town.

C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized by law on a person or property regulated under this subtitle. Nothing in this section shall be construed to limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under § 4.1-1003 if such tax or fee is (i) based on an annual or per-event flat fee authorized by law or (ii) is an annual license or privilege tax authorized by law, and such tax includes sales or receipts taxable under § 4.1-1003 in its taxable measure.

D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall take effect on the first day of the second month following its enactment.

E. Any tax levied under this section shall be administered and collected by the Authority in the same manner as provided for the tax imposed under § 4.1-1003.

F. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

§ 4.1-1005. Tax returns and payments; commissions; interest.

A. For any sale taxable under §§ 4.1-1003 and 4.1-1004, the seller shall be liable for collecting any taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable for collecting or remitting the taxes or filing a return.

7959 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 or
7960 4.1-1004 shall file a return under oath with the Authority and pay any taxes due. Upon written application
7961 by a person filing a return, the Authority may, if it determines good cause exists, grant an extension to the
7962 end of the calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension
7963 shall toll the accrual of any interest or penalties under § 4.1-1008.

7964 C. The Authority may accept payment by any commercially acceptable means, including cash,
7965 checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due
7966 under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

7967 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit
7968 card, or automated clearinghouse transfer information and use such information for future payments of
7969 taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any
7970 payments made under this subsection. The Authority may procure the services of a third-party vendor for
7971 the secure storage of information collected pursuant to this subsection.

7972 E. If any person liable for tax under §§ 4.1-1003 and 4.1-1004 sells out his business or stock of
7973 goods or quits the business, such person shall make a final return and payment within 15 days after the
7974 date of selling or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient
7975 of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such
7976 former owner produces a receipt from the Authority showing payment or a certificate stating that no taxes,
7977 penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the purchase
7978 money as provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and
7979 penalties due and unpaid on account of the operation of the business by any former owner.

7980 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004,
7981 interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes
7982 due under §§ 4.1-1003 and 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206
7983 and 4.1-1207.

7984 **§ 4.1-1006. Bonds.**

The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the taxes levied under §§ 4.1-1003 and 4.1-1004, require any person subject to such tax to file a bond, with such surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

§ 4.1-1007. Refunds.

A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1003 or 4.1-1004 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed voluntarily because the taxable items were defective and after notice to and approval by the Authority of such destruction; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper.

B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper.

C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1003 or 4.1-1004 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax so refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller after such return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in submitting his return.

8011 § 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and
8012 penalties.

8013 A. The taxes imposed under §§ 4.1-1003 and 4.1-1004 shall be assessed within three years from
8014 the date on which such taxes became due and payable. In the case of a false or fraudulent return with intent
8015 to defraud the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in
8016 court for the collection of such taxes may be begun without assessment, at any time within six years from
8017 such date. The Authority shall not examine any person's records beyond the three-year period of
8018 limitations unless it has reasonable evidence of fraud or reasonable cause to believe that such person was
8019 required by law to file a return and failed to do so.

8020 B. If any person fails to file a return as required by this section, or files a return that is false or
8021 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person
8022 and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10
8023 days' notice requiring such person to provide any records as it may require relating to the business of such
8024 person for the taxable period. The Authority may require such person or the agents and employees of such
8025 person to give testimony or to answer interrogatories under oath administered by the Authority respecting
8026 taxable sales, the filing of the return, and any other relevant information. If any person fails to file a
8027 required return, refuses to provide required records, or refuses to answer interrogatories from the
8028 Authority, the Authority may make an estimated assessment based upon the information available to it
8029 and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties.
8030 The estimated assessment shall be deemed prima facie correct.

8031 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not
8032 pay within 30 days after the due date, taking into account any extensions granted by the Authority, the
8033 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which
8034 the person's place of business is located or in which the person resides. If the person has no place of
8035 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of
8036 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties
8037 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment

docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given to the person at his last known address.

2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal under § 4.1-1009.

3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the doors so padlocked. If after three business days, the tax deficiency has not been satisfied or satisfactory arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event that the person against whom the distraint has been applied subsequently appeals under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release of the lien within seven days after such determination is made.

§ 4.1-1009. Appeals.

Any tax imposed under § 4.1-1003 or 4.1-1004, any interest imposed under § 4.1-1008, any action of the Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject

to review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

CHAPTER 11.

POSSESSION OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS; PROHIBITED PRACTICES GENERALLY.

§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or older lawful; penalties.

A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person 21 years of age or older may lawfully possess on his person or in any public place not more than one ounce of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board.

B. Any person who possesses on his person or in any public place marijuana or marijuana products in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. A violation of this section is a civil offense. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. The penalty for any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2. Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388.

C. With the exception of a licensee in the course of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in any public place more than five pounds of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the

8092 Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than
8093 10 years and a fine of not more than \$250,000, or both.

8094 D. The provisions of this section shall not apply to members of federal, state, county, city, or town
8095 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
8096 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
8097 necessary for the performance of their duties.

8098 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

8099 A. A person 21 years of age or older may cultivate up to two mature marijuana plants and two
8100 immature marijuana plants for personal use at their place of residence; however, at no point shall a
8101 household contain more than two mature marijuana plants and two immature marijuana plants. For
8102 purposes of this section, a "household" means those individuals, whether related or not, who live in the
8103 same house or other place of residence.

8104 A person may only cultivate marijuana plants pursuant to this section at such person's main place
8105 of residence.

8106 B. A person who cultivates marijuana for personal use pursuant to this section shall:

8107 1. Ensure that the marijuana is not visible from a public way without the use of aircraft, binoculars,
8108 or other optical aids;

8109 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

8110 3. Attach to each mature marijuana plant and immature marijuana plant a legible tag that includes
8111 the person's name, driver's license or identification number, and a notation that the marijuana plant is being
8112 grown for personal use as authorized under this section.

8113 C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The
8114 owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to
8115 manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land.

8116 D. The following penalties or punishments shall be imposed on any person convicted of a violation
8117 of this section:

1. For possession of more than two mature marijuana plants and two immature marijuana plants but no more than 10 total marijuana plants, (i) a civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;

2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

§ 4.1-1102. Illegal cultivation or manufacture of marijuana or marijuana products; conspiracy; penalties.

A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or manufacture marijuana or marijuana products in the Commonwealth without being licensed under this subtitle to cultivate or manufacture such marijuana or marijuana products.

B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

C. If two or more persons conspire together to do any act that is in violation of subsection A, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy is guilty of a Class 6 felony.

§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.

If any person who is not licensed sells, gives, or distributes any marijuana or marijuana products except as permitted by this subtitle, he is guilty of a Class 2 misdemeanor.

A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age; penalties.

A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

8145 B. It is unlawful for any person 21 years of age or older to sell or distribute, or possess with the
8146 intent to sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. Any person
8147 who violates this subsection is guilty of a Class 1 misdemeanor.

8148 C. It is unlawful for any person 21 years of age or older to place in any newspaper, magazine,
8149 handbill, or other publication any advertisement, knowing or under circumstances where one reasonably
8150 should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana
8151 paraphernalia to persons younger than 21 years of age. Any person who violates this subsection is guilty
8152 of a Class 1 misdemeanor.

8153 D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an
8154 individual who is younger than 21 years of age and at the time of the sale does not require the individual
8155 to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty
8156 of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or
8157 reasonably appears to be an unexpired driver's license issued by any state of the United States or the
8158 District of Columbia, military identification card, United States passport or foreign government visa,
8159 unexpired special identification card issued by the Department of Motor Vehicles, or any other valid
8160 government-issued identification card bearing the individual's photograph, signature, height, weight, and
8161 date of birth, or which bears a photograph that reasonably appears to match the appearance of the
8162 purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes
8163 of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3
8164 misdemeanor. Notwithstanding the provisions of § 4.1-701, the Board shall not take administrative action
8165 against a licensee for the conduct of his employee who violates this subsection.

8166 E. No person shall be convicted of both subsections A and D for the same sale.

8167 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
8168 **exceptions; penalties; forfeiture; deferred proceedings; treatment and education programs and**
8169 **services.**

8170 A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under
8171 § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any

8172 marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-
8173 enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the
8174 performance of his duties. Such person may be prosecuted either in the county or city in which the
8175 marijuana or marijuana products were possessed or consumed or in the county or city in which the person
8176 exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

8177 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of
8178 no more than \$250 for a first offense and shall be ordered to enter a substance abuse treatment or education
8179 program or both, if available, that in the opinion of the court best suits the needs of the accused. A person
8180 18 years of age or older who is convicted under subsection A of a second offense is guilty of a Class 3
8181 misdemeanor and of a third or subsequent offense is guilty of a Class 2 misdemeanor.

8182 When any person 18 years of age or older who has not previously violated subsection A or been
8183 convicted of consumption, purchase, or possession of marijuana or marijuana products in Virginia or any
8184 other state or the United States is before the court, the court may, upon entry of a plea of guilty or not
8185 guilty, if the facts found by the court would justify a finding of guilt of a violation of subsection A, shall,
8186 without entering a judgment of guilt, defer further proceedings and place the accused on probation subject
8187 to appropriate conditions. As a term and condition, the court shall require the accused to enter a substance
8188 abuse treatment or education program or both, if available, that in the opinion of the court best suits the
8189 needs of the accused. If the accused is placed on local community-based probation, the program or services
8190 shall be located in any of the judicial districts served by the local community-based probation services
8191 agency.

8192 Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise
8193 provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the
8194 proceedings against the person without an adjudication of guilt. A discharge and dismissal hereunder shall
8195 be treated as a conviction for the purpose of applying this section in any subsequent proceedings.

8196 C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$200 for a
8197 first offense and the court shall require the accused to enter a substance abuse treatment or education
8198 program or both, if available, that in the opinion of the court best suits the needs of the accused. For

8199 purposes of §§ 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as
8200 delinquent.

8201 For a second and any subsequent violation of subsection A, such juvenile is guilty of a Class 3
8202 misdemeanor, and the court shall require the accused to enter a substance abuse treatment or education
8203 program or both, if available, that in the opinion of the court best suits the needs of the accused.

8204 D. Any such substance abuse treatment or education program to which a person is ordered pursuant
8205 to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and
8206 Developmental Services or (ii) a program or services made available through a community-based
8207 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if
8208 one has been established for the locality. When an offender is ordered to a local community-based
8209 probation services agency, the local community-based probation services agency shall be responsible for
8210 providing for services or referring the offender to education or treatment services as a condition of
8211 probation.

8212 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
8213 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years
8214 of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a
8215 motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth
8216 certificate or student identification card; or (iii) motor vehicle driver's license or other document issued
8217 under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth
8218 certificate, or student identification card of another person in order to establish a false identification or
8219 false age for himself to consume, purchase, or attempt to consume or purchase retail marijuana or retail
8220 marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1
8221 misdemeanor.

8222 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be
8223 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

8224 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state
8225 or local law-enforcement agency of a violation or suspected violation of this section shall be accorded
8226 immunity from an administrative penalty for a violation of § 4.1-1104.

8227 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they**
8228 **may not be sold; penalties; forfeiture.**

8229 A. Any person who purchases retail marijuana or retail marijuana products for another person and
8230 at the time of such purchase knows or has reason to believe that the person for whom the retail marijuana
8231 or retail marijuana products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

8232 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
8233 marijuana or retail marijuana products to, another person when he knows or has reason to know that such
8234 person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when
8235 possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a
8236 Class 1 misdemeanor.

8237 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
8238 contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

8239 **§ 4.1-1107. Using or consuming marijuana or marijuana products while in a motor vehicle**
8240 **being driven upon a public highway; penalty.**

8241 A. For the purposes of this section:

8242 "Open container" means any vessel containing marijuana or marijuana products, except the
8243 originally sealed manufacturer's container.

8244 "Passenger area" means the area designed to seat the driver of any motor vehicle, any area within
8245 the reach of the driver, including an unlocked glove compartment, and the area designed to seat
8246 passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last
8247 upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the
8248 living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used
8249 primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while
8250 engaged in the transportation of such persons.

8251 B. It is unlawful for any person to use or consume marijuana or marijuana products while driving
8252 a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor
8253 vehicle being driven upon a public highway of the Commonwealth.

8254 C. A judge or jury may make a permissive inference that a person has consumed marijuana or
8255 marijuana products in violation of this section if (i) an open container is located within the passenger area
8256 of the motor vehicle, (ii) the marijuana or marijuana products in the open container have been at least
8257 partially removed and (iii) the appearance, conduct, speech, or other physical characteristic of such person,
8258 excluding odor, is consistent with the consumption of marijuana or marijuana products. Such person may
8259 be prosecuted either in the county or city in which the marijuana was used or consumed, or in the county
8260 or city in which the person exhibits evidence of physical indicia of use or consumption of marijuana.

8261 D. Any person who violates this section is guilty of a Class 1 misdemeanor.

8262 **§ 4.1-1108. Consuming marijuana or marijuana products, or offering to another, in public**
8263 **place; penalty.**

8264 If any person consumes marijuana or a marijuana product or offers marijuana or a marijuana
8265 product to another, whether accepted or not, at or in any public place, such person is guilty of a Class 4
8266 misdemeanor.

8267 **§ 4.1-1109. Consuming or possessing marijuana or marijuana products in or on public school**
8268 **grounds; penalty.**

8269 A. No person shall possess or consume any marijuana or marijuana product in or upon the grounds
8270 of any public elementary or secondary school during school hours or school or student activities.

8271 B. In addition, no person shall consume and no organization shall serve any marijuana or marijuana
8272 products in or upon the grounds of any public elementary or secondary school after school hours or school
8273 or student activities.

8274 C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.

8275 **§ 4.1-1110. Possessing or consuming marijuana or marijuana products while operating a**
8276 **school bus; penalty.**

8277 Any person who possesses or consumes marijuana or marijuana products while operating a school
8278 bus and transporting children is guilty of a Class 1 misdemeanor. For the purposes of this section, "school
8279 bus" has the same meaning as provided in § 46.2-100.

8280 **§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana**
8281 **products; penalty; exception.**

8282 A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the
8283 Commonwealth.

8284 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8285 **§ 4.1-1112. Limitation on carrying retail marijuana or retail marijuana products in motor**
8286 **vehicle transporting passengers for hire; penalty.**

8287 The transportation of retail marijuana or retail marijuana products in any motor vehicle that is
8288 being used, or is licensed, for the transportation of passengers for hire is prohibited, except when carried
8289 in the possession of a passenger who is being transported for compensation at the regular rate and fare
8290 charged other passengers.

8291 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8292 **§ 4.1-1113. Maintaining common nuisances; penalties.**

8293 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of
8294 every description where marijuana or marijuana products are manufactured, stored, sold, dispensed, given
8295 away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common nuisances.

8296 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
8297 nuisance.

8298 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

8299 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not
8300 involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305
8301 and upon proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat,
8302 car, or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving
8303 bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that

8304 the premises shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a
8305 period of five years, turn the same over to its owner or lessor, or proceeding may be had in equity as
8306 provided in § 4.1-1305.

8307 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
8308 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii)
8309 had the right, because of such unlawful use, to enter and repossess the property.

8310 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

8311 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
8312 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered
8313 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry
8314 by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing
8315 or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a fortified drug
8316 house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

8317 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

8318 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member,
8319 or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum
8320 of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board
8321 to hold and conduct such hearing.

8322 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8323 **§ 4.1-1116. Illegal advertising; penalty; exception.**

8324 A. Except in accordance with this subtitle and Board regulations, no person shall advertise in or
8325 send any advertising matter into the Commonwealth about or concerning marijuana other than such that
8326 may legally be manufactured or sold without a license.

8327 B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana
8328 wholesaler licensees, and retail marijuana store licensees may engage in the display of outdoor retail
8329 marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display is
8330 done in accordance with § 4.1-1405 and Board regulations.

8331 C. Except as provided in subsection D, any person convicted of a violation of this section is guilty
8332 of a Class 1 misdemeanor.

8333 D. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising,
8334 the Board shall give the advertiser written notice to take corrective action to either bring the advertisement
8335 into compliance with this subtitle and Board regulations or to remove such advertisement. If corrective
8336 action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

8337 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

8338 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional
8339 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile
8340 correctional center any marijuana or marijuana products.

8341 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8342 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

8343 A. No person shall separate plant resin by butane extraction or another method that utilizes a
8344 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within
8345 the curtilage of any residential structure.

8346 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8347 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

8348 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another
8349 in doing, or attempting to do, any of the things prohibited by this subtitle.

8350 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court
8351 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same
8352 as if the defendant were solely guilty of such violation.

8353 **§ 4.1-1120. Persons charged with first offense may be placed on probation; conditions;**
8354 **substance abuse screening, assessment treatment, and education programs or services; drug tests;**
8355 **costs and fees; violations; discharge.**

8356 A. Except as provided in § 4.1-1105, whenever any person who has not previously been convicted
8357 of any offense under this subtitle pleads guilty to or enters a plea of not guilty to an offense under this

8358 subtitle, the court, upon such plea if the facts found by the court would justify a finding of guilt, without
8359 entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place
8360 the accused on probation upon terms and conditions.

8361 B. As a term or condition, the court shall require the accused to undergo a substance abuse
8362 assessment pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any
8363 combination thereof, if available, such as, in the opinion of the court, may be best suited to the needs of
8364 the accused based upon consideration of the substance abuse assessment. The program or services may be
8365 located in the judicial district in which the charge is brought or in any other judicial district as the court
8366 may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral
8367 Health and Developmental Services, or a similar program that is made available through the Department
8368 of Corrections; (ii) a local community-based probation services agency established pursuant to § 9.1-174;
8369 or (iii) an alcohol safety action program (ASAP) certified by the Commission on the Virginia Alcohol
8370 Safety Action Program (VASAP).

8371 C. The court shall require the person entering such program under the provisions of this section to
8372 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
8373 treatment, based upon the accused's ability to pay, unless the person is determined by the court to be
8374 indigent.

8375 D. As a condition of probation, the court shall require the accused (i) to successfully complete
8376 treatment or education programs or services, (ii) to remain drug-free and alcohol-free during the period of
8377 probation and submit to such tests during that period as may be necessary and appropriate to determine if
8378 the accused is drug-free and alcohol-free, (iii) to make reasonable efforts to secure and maintain
8379 employment, and (iv) to comply with a plan of up to 24 hours of community service. Such testing shall be
8380 conducted by personnel of the supervising probation agency or personnel of any program or agency
8381 approved by the supervising probation agency.

8382 E. The court shall, unless done at arrest, order the accused to report to the original arresting law-
8383 enforcement agency to submit to fingerprinting.

8384 F. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed
8385 as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person
8386 and dismiss the proceedings against him. Discharge and dismissal under this section shall be without
8387 adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent
8388 proceedings.

8389 G. When any juvenile is found to have committed a violation of subsection A, the disposition of
8390 the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of
8391 Title 16.1.

8392 CHAPTER 12.

8393 PROHIBITED PRACTICES BY LICENSEES.

8394 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

8395 A. No licensee or any agent or employee of such licensee shall:

8396 1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products
8397 of a kind other than that which such license or this subtitle authorizes him to cultivate, manufacture,
8398 transport, sell, or test;

8399 2. Sell retail marijuana or retail marijuana products of a kind that such license or this subtitle
8400 authorizes him to sell, but to any person other than to those to whom such license or this subtitle authorizes
8401 him to sell;

8402 3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that
8403 such license or this subtitle authorizes him to sell, but in any place or in any manner other than such license
8404 or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

8405 4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products
8406 when forbidden by this subtitle;

8407 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana
8408 or retail marijuana products other than that which he is authorized to cultivate, manufacture, transport,
8409 sell, or transport by such license or by this subtitle;

8410 6. Sell any retail marijuana or retail marijuana products to a retail marijuana store licensee, except
8411 for cash, if the seller holds a marijuana cultivation facility, marijuana manufacturing facility, or marijuana
8412 wholesaler license;

8413 7. Keep any retail marijuana or retail marijuana product other than in the container in which it was
8414 purchased by him; or

8415 8. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee
8416 at a retail marijuana store.

8417 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8418 **§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.**

8419 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or
8420 employee shall consume any retail marijuana or retail marijuana products while on duty and in a position
8421 that is involved in the selling of retail marijuana or retail marijuana products to consumers.

8422 B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana
8423 or marijuana products.

8424 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an
8425 amount not to exceed \$500.

8426 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person**
8427 **without a license; penalty.**

8428 No retail marijuana store licensee shall purchase for resale or sell any retail marijuana or retail
8429 marijuana products purchased from anyone other than a marijuana wholesaler licensee.

8430 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8431 **§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by**
8432 **licensees; penalty.**

8433 A. No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products
8434 from one licensed place of business to another licensed place of business, whether or not such places of
8435 business are under the same ownership.

8436 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

8437 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

8438 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to
8439 any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
8440 decorations under circumstances prohibited by this subtitle or Board regulations.

8441 Any person found by the Board to have violated this section shall be subject to a civil penalty as
8442 authorized in § 4.1-903.

8443 **§ 4.1-1205. Solicitation by persons interested in manufacture, etc., of marijuana or**
8444 **marijuana products; penalty.**

8445 A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of
8446 retail marijuana or retail marijuana products shall, without a permit granted by the Board and upon such
8447 conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store
8448 licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with the licensee in
8449 any capacity whatsoever in his licensed business to sell or offer for sale the retail marijuana or retail
8450 marijuana products in which such person may be so interested.

8451 The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate
8452 the sale of the retail marijuana or retail marijuana products that were the subject matter of the unlawful
8453 solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana
8454 or retail marijuana products manufactured or distributed by either the employer or principal of such
8455 solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted. The Board may impose
8456 a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales, or both.

8457 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

8458 B. No retail marijuana store licensee or any agent or employee of such licensee, or any person
8459 connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or
8460 indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

8461 The Board may suspend or revoke the license granted to such licensee or may impose a civil
8462 penalty not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

8463 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

8464 **§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and**
8465 **accounts or to allow examination and inspection; penalty.**

8466 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii)
8467 deliver, keep, and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board
8468 regulation; or (iii) allow such records, invoices, and accounts or his place of business to be examined and
8469 inspected in accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of
8470 a Class 1 misdemeanor.

8471 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority
8472 may suspend or revoke any license of such licensee that was issued by the Authority.

8473 **§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

8474 A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable
8475 taxes due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive,
8476 transport, store, or sell any retail marijuana or retail marijuana products on which such retailer has reason
8477 to know such tax has not been paid and may not be paid. Any person convicted of a violation of this
8478 subsection is guilty of a Class 1 misdemeanor.

8479 B. On any person who fails to file a return required for a tax due under § 4.1-1003 or 4.1-1004,
8480 there shall be imposed a civil penalty to be added to the tax in the amount of five percent of the proper tax
8481 due if the failure is for not more than 30 days, with an additional five percent for each additional 30 days,
8482 or fraction thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in
8483 the aggregate.

8484 C. In the case of a false or fraudulent return, where willful intent exists to defraud the
8485 Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50
8486 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any
8487 penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the
8488 Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the
8489 actual amount.

8490 D. If any check tendered for any amount due under § 4.1-1003 or 4.1-1004 or this section is not
8491 paid by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority
8492 the amount due within five days after the Authority gives it notice that such check was returned unpaid,
8493 the person by which such check was tendered is guilty of a violation of § 18.2-182.1.

8494 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same
8495 manner as if they were a part of the tax imposed.

8496 CHAPTER 13.

8497 PROHIBITED PRACTICES; PROCEDURAL MATTERS.

8498 § 4.1-1300. Enjoining nuisances.

8499 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney
8500 for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined
8501 in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common
8502 nuisance.

8503 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the
8504 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or
8505 marijuana products are cultivated, manufactured, stored, sold, dispensed, given away, or used in such
8506 house, building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an
8507 injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and
8508 restrain the owners and tenants and their agents and employees, and any person connected with such
8509 house, building, or other place, and all persons whomsoever from cultivating, manufacturing, storing,
8510 selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The
8511 injunction shall also restrain all persons from removing any marijuana or marijuana products then on such
8512 premises until the further order of the court. If the court is satisfied that the material allegations of the bill
8513 are true, although the premises complained of may not then be unlawfully used, it shall continue the
8514 injunction against such place for a period of time as the court deems proper. The injunction may be
8515 dissolved if a proper case is shown for dissolution.

8516 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to**
8517 **forfeiture.**

8518 A. All apparatus and materials for the cultivation or manufacture of marijuana or marijuana
8519 products, all marijuana or marijuana products and materials used in their manufacture, all containers in
8520 which marijuana or marijuana products may be found, that are kept, stored, possessed, or in any manner
8521 used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308
8522 that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid
8523 such person in the unlawful cultivation, manufacture, transportation, or sale of marijuana or marijuana
8524 products, or found in the possession of such person, or any horse, mule, or other beast of burden or any
8525 wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity of
8526 any place where marijuana or marijuana products are being unlawfully manufactured and where such
8527 animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall
8528 be forfeited to the Commonwealth.

8529 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with §
8530 4.1-1304 for all such property except motor vehicles, which proceedings shall be in accordance with
8531 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

8532 **§ 4.1-1302. Search without warrant; odor of marijuana.**

8533 A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any
8534 person, place, or thing solely on the basis of the odor of marijuana and no evidence discovered or obtained
8535 pursuant to a violation of this subsection, including evidence discovered or obtained with the person's
8536 consent, shall be admissible in any trial, hearing, or other proceeding.

8537 B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the
8538 violation occurs in a commercial motor vehicle as defined in § 46.2-341.4.

8539 **§ 4.1-1303. Search warrants.**

8540 A. If complaint on oath is made that marijuana or marijuana products are being cultivated,
8541 manufactured, sold, kept, stored, or in any manner held, used, or concealed in a particular house, or other
8542 place, in violation of law, the judge, magistrate, or other person having authority to issue criminal

8543 warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall
8544 issue a warrant to search such house or other place for marijuana or marijuana products. Such warrants,
8545 except as herein otherwise provided, shall be issued, directed, and executed in accordance with the laws
8546 of the Commonwealth pertaining to search warrants.

8547 B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or
8548 vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or
8549 not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they
8550 are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile,
8551 boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be
8552 transported contrary to law.

8553 **§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.**

8554 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
8555 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

8556 B. Production of seized property. Whenever any article declared contraband under the provisions
8557 of this subtitle and required to be forfeited to the Commonwealth has been seized, with or without a
8558 warrant, by any officer charged with the enforcement of this subtitle, he shall produce the contraband
8559 article and any person in whose possession it was found. In those cases where no person is found in
8560 possession of such articles, the return shall so state and a copy of the warrant shall be posted on the door
8561 of the buildings or room where the articles were found, or if there is no door, then in any conspicuous
8562 place upon the premises.

8563 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to
8564 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy
8565 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the
8566 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the
8567 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of
8568 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed,
8569 and the materials remaining after such destruction. The report shall include a statement that, from facts

8570 within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set
8571 up for use, or had been used in the unlawful cultivation or manufacture of marijuana, and that it was
8572 impracticable to remove such apparatus to a place of safe storage.

8573 In case of seizure of any quantity of marijuana or marijuana products for any offense involving
8574 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof
8575 for the purpose of unlawful cultivation or manufacture of marijuana or marijuana products or any other
8576 violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such
8577 witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The
8578 report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a
8579 statement that, from facts within their own knowledge, the seizing officer and witness have no doubt
8580 whatever that the marijuana or marijuana products were intended for use in the unlawful cultivation or
8581 manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.

8582 C. Hearing and determination. Upon the return of the warrant as provided in this section, the court
8583 shall fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30 days
8584 thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof,
8585 were used or in any manner kept, stored, or possessed in violation of this subtitle.

8586 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
8587 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
8588 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
8589 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
8590 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
8591 determine the validity of such claim.

8592 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
8593 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall
8594 not be a bar to any prosecution under any other provision of this subtitle.

8595 D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over
8596 to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper.
8597 The net proceeds from such sales shall be paid into the Literary Fund.

8598 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the
8599 Board in accordance with this section are usable, should not be destroyed, and cannot be sold or whose
8600 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall
8601 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.
8602 A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the
8603 date when given, and shall be kept in the offices of the Board.

8604 **§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

8605 A. When any officer charged with the enforcement of the cannabis control laws of the
8606 Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally acquired,
8607 or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on water,
8608 except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor car, or
8609 steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant and search
8610 such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana products or retail
8611 marijuana or retail marijuana products being illegally transported in amounts in excess of two and one-
8612 half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or 72 ounces of liquid retail
8613 marijuana product, the officer shall seize the retail marijuana or retail marijuana product, seize and take
8614 possession of such conveyance or vehicle, and deliver them to the chief law-enforcement officer of the
8615 locality in which such seizure was made, taking his receipt therefor in duplicate.

8616 B. The officer making such seizure shall also arrest all persons found in charge of such conveyance
8617 or vehicle and shall forthwith report in writing such seizure and arrest to the attorney for the
8618 Commonwealth for the county or city in which seizure and arrest were made.

8619 **§ 4.1-1306. Contraband retail marijuana or retail marijuana products.**

8620 Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed
8621 contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other

indicia of permission issued by the Board authorizing the transportation of retail marijuana or retail marijuana products within the Commonwealth when other Board regulations applicable to such transportation have been complied with shall not be cause for deeming such retail marijuana or retail marijuana products contraband.

§ 4.1-1307. Punishment for violations of title or regulations; bond.

A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided that he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

§ 4.1-1308. Witness not excused from testifying because of self-incrimination.

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him, and he shall not be prosecuted for the offense to which he testifies.

§ 4.1-1309. Previous convictions.

8648 In any indictment, information, or warrant charging any person with a violation of any provision
8649 of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that
8650 such person has been previously convicted of a violation of this subtitle.

8651 **§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

8652 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board
8653 or the Department of Forensic Science, when signed by him, shall be evidence in all prosecutions for
8654 violations of this subtitle and all controversies in any judicial proceedings touching the mixture analyzed
8655 by him. On motion of the accused or any party in interest, the court may require the forensic scientist
8656 making the analysis to appear as a witness and be subject to cross-examination, provided that such motion
8657 is made within a reasonable time prior to the day on which the case is set for trial.

8658 **§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.**

8659 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing
8660 retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana
8661 content of the container. Nothing shall preclude the introduction of other relevant evidence to establish
8662 the marijuana content of a container, whether sealed or not.

8663 **§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.**

8664 No action to recover the price of any retail marijuana or retail marijuana products sold in
8665 contravention of this subtitle may be maintained.

8666 **CHAPTER 14.**

8667 **CANNABIS CONTROL; TESTING; ADVERTISING.**

8668 **§ 4.1-1400. Board to establish regulations for marijuana testing.**

8669 The Board shall establish a testing program for marijuana and marijuana products. Except as
8670 otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee,
8671 prior to selling or distributing retail marijuana or a retail marijuana product to a consumer or to another
8672 licensee, to submit a representative sample of the retail marijuana or retail marijuana product, not to exceed
8673 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that
8674 the retail marijuana or retail marijuana product does not exceed the maximum level of allowable

8675 contamination for any contaminant that is injurious to health and for which testing is required and to
8676 ensure correct labeling. The Board shall adopt regulations (i) establishing a testing program pursuant to
8677 this section; (ii) establishing acceptable testing and research practices, including regulations relating to
8678 testing practices, methods, and standards; quality control analysis; equipment certification and calibration;
8679 marijuana testing facility recordkeeping, documentation, and business practices; disposal of used, unused,
8680 and waste retail marijuana and retail marijuana products; and reporting of test results; (iii) identifying the
8681 types of contaminants that are injurious to health for which retail marijuana and retail marijuana products
8682 shall be tested under this subtitle; and (iv) establishing the maximum level of allowable contamination for
8683 each contaminant.

8684 **§ 4.1-1401. Mandatory testing; scope; recordkeeping; notification; additional testing not**
8685 **required; required destruction; random testing.**

8686 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer
8687 or to another licensee under this subtitle unless a representative sample of the retail marijuana or retail
8688 marijuana product has been tested pursuant to this subtitle and the regulations adopted pursuant to this
8689 subtitle and that mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana
8690 product does not exceed the maximum level of allowable contamination for any contaminant that is
8691 injurious to health and for which testing is required and (ii) the labeling on the retail marijuana or retail
8692 marijuana product is correct.

8693 B. Mandatory testing of retail marijuana and retail marijuana products under this section shall
8694 include testing for:

- 8695 1. Residual solvents, poisons, and toxins;
8696 2. Harmful chemicals;
8697 3. Dangerous molds and mildew;
8698 4. Harmful microbes, including but not limited to Escherichia coli and Salmonella;
8699 5. Pesticides, fungicides, and insecticides; and
8700 6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct
8701 labeling.

8702 Testing shall be performed on the final form in which the retail marijuana or retail marijuana
8703 product will be consumed.

8704 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
8705 retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the
8706 marijuana testing facility, and the results of the mandatory test.

8707 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail
8708 marijuana or retail marijuana product exceeds the maximum level of allowable contamination for any
8709 contaminant that is injurious to health and for which testing is required, the marijuana testing facility shall
8710 immediately quarantine, document, and properly destroy the retail marijuana or retail marijuana product
8711 and within 30 days of completing the test shall notify the Board of the test results.

8712 A marijuana testing facility is not required to notify the Board of the results of any test:

8713 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant
8714 to this section that demonstrates that the marijuana or marijuana product does not exceed the maximum
8715 level of allowable contamination for any contaminant that is injurious to health and for which testing is
8716 required;

8717 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for
8718 research and development purposes only, so long as the licensee notifies the marijuana testing facility
8719 prior to the performance of the test that the testing is for research and development purposes only; or

8720 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is
8721 not a licensee.

8722 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another
8723 licensee retail marijuana or a retail marijuana product that the licensee has not submitted for testing in
8724 accordance with this subtitle and regulations adopted pursuant to this subtitle if the following conditions
8725 are met:

8726 1. The retail marijuana or retail marijuana product has previously undergone testing in accordance
8727 with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and
8728 that testing demonstrated that the retail marijuana or retail marijuana product does not exceed the

8729 maximum level of allowable contamination for any contaminant that is injurious to health and for which
8730 testing is required;

8731 2. The mandatory testing process and the test results for the retail marijuana or retail marijuana
8732 product are documented in accordance with the requirements of this subtitle and all applicable regulations
8733 adopted pursuant to this subtitle;

8734 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
8735 retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product
8736 to another licensee or to a consumer can be easily identified; and

8737 4. The retail marijuana or retail marijuana product has not undergone any further processing,
8738 manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

8739 F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail
8740 marijuana products whose testing samples indicate noncompliance with the health and safety standards
8741 required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial
8742 measures can bring the retail marijuana or retail marijuana products into compliance with such required
8743 health and safety standards.

8744 G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana
8745 products for the purpose of random testing by a state-owned laboratory or state-approved private
8746 laboratory.

8747 **§ 4.1-1402. Labeling and packaging requirements; prohibitions.**

8748 A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
8749 consumer in accordance with the provisions of this subtitle shall be labeled with the following information:

8750 1. Identification of the type of marijuana or marijuana product and the date of cultivation,
8751 manufacturing, and packaging;

8752 2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility,
8753 and the retail marijuana store where the retail marijuana or retail marijuana product was cultivated,
8754 manufactured, and offered for sale, as applicable;

8755 3. A statement of the net weight of the retail marijuana or retail marijuana product;

8756 4. Information concerning (i) pharmacologically active ingredients, including
8757 tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other
8758 cannabinoid amount in milligrams per serving, the total servings per package, and the THC and other
8759 cannabinoid amount in milligrams for the total package; and (iii) the potency of the THC and other
8760 cannabinoid content;

8761 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

8762 6. Instructions on usage;

8763 7. For retail marijuana products, (i) a list of ingredients and possible allergens and (ii) a
8764 recommended use by date or expiration date;

8765 8. For edible retail marijuana products, a nutritional fact panel;

8766 9. The following statements, prominently displayed in bold print and in a clear and legible fashion:

8767 a. For retail marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS
8768 MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP
8769 OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND
8770 YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE
8771 USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION."

8772 b. For retail marijuana products: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS
8773 MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP
8774 OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND
8775 YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE
8776 USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION.";

8777 10. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail
8778 marijuana products; and

8779 11. Any other information required by Board regulations.

8780 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
8781 consumer in accordance with the provisions of this subtitle shall be packaged in the following manner:

8782 1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant, tamper-
8783 evident, and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer
8784 in child-resistant, tamper-evident, and resealable packaging that is opaque;

8785 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
8786 component; and

8787 3. Packaging shall comply with any other requirements imposed by Board regulations.

8788 C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
8789 consumer in accordance with the provisions of this subtitle shall not:

8790 1. Be labeled or packaged in violation of a federal trademark law or regulation;

8791 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years
8792 of age;

8793 3. Be labeled or packaged in a manner that obscures identifying information on the label;

8794 4. Be labeled or packaged using a false or misleading label;

8795 5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle,
8796 or fruit; and

8797 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed
8798 by Board regulations.

8799 **§ 4.1-1403. Other health and safety requirements for edible retail marijuana products and**
8800 **other retail marijuana products deemed applicable by the Authority; health and safety regulations.**

8801 A. Requirements and restrictions for edible retail marijuana products and other retail marijuana
8802 products deemed applicable by the Authority. In addition to all other applicable provisions of this subtitle,
8803 edible retail marijuana products and other retail marijuana products deemed applicable by the Authority
8804 to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle:

8805 1. Shall be manufactured by an approved source, as determined by § 3.2-5145.8;

8806 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

8807 3. Shall be manufactured in a manner that results in the cannabinoid content within the product
8808 being homogeneous throughout the product or throughout each element of the product that has a
8809 cannabinoid content;

8810 4. Shall be manufactured in a manner that results in the amount of marijuana concentrate within
8811 the product being homogeneous throughout the product or throughout each element of the product that
8812 contains marijuana concentrate;

8813 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

8814 6. Shall not contain more than five milligrams of tetrahydrocannabinol (THC) per serving of the
8815 product and shall not contain more than 50 milligrams of THC per package of the product;

8816 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
8817 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to
8818 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
8819 than 21 years of age; and

8820 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
8821 the trademarked product is used as a component of or ingredient in the edible retail marijuana product and
8822 the edible retail marijuana product is not advertised or described for sale as containing the trademarked
8823 product.

8824 B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or
8825 other health and safety regulations that it deems necessary for retail marijuana and retail marijuana
8826 products to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle.
8827 Regulations adopted pursuant to this subsection shall establish mandatory health and safety standards
8828 applicable to the cultivation of retail marijuana, the manufacture of retail marijuana products, and the
8829 packaging and labeling of retail marijuana and retail marijuana products sold by a licensee to a consumer.
8830 Such regulations shall address:

8831 1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail
8832 marijuana products by licensees;

8833 2. Sanitary standards for marijuana establishments, including sanitary standards for the
8834 manufacture of retail marijuana and retail marijuana products; and

8835 3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana
8836 stores.

8837 **§ 4.1-1404. Advertising and marketing restrictions.**

8838 A. As used in this section, unless the context requires a different meaning, "health-related
8839 statement" means any statement related to health and includes statements of a curative or therapeutic
8840 nature that, expressly or by implication, suggest a relationship between the consumption of retail
8841 marijuana or retail marijuana products and health benefits or effects on health.

8842 B. No person shall advertise in or send any advertising matter into the Commonwealth about or
8843 concerning retail marijuana or retail marijuana products other than those that may be legally manufactured
8844 in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

8845 C. A licensee shall not advertise through any means unless at least 85 percent of the audience is
8846 reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience
8847 composition data.

8848 D. A licensee shall not engage in the use of pop-up digital advertisements but may list their
8849 establishment in public phone books and directories.

8850 E. A licensee shall not display any marijuana or marijuana product pricing through any means of
8851 advertisement other than their establishment website, which shall be registered with the Authority, or an
8852 opt-in subscription-based service, provided that the licensee utilizes proper age verification techniques to
8853 confirm that the person attempting to access the website or sign up for a subscription-based service is 21
8854 years of age or older.

8855 F. Advertising or marketing used by or on behalf of a licensee:

8856 1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a
8857 minimum, the licensee's license number, and shall include the following statement: "For use by adults 21
8858 years of age and older";

8859 2. Shall not be misleading, deceptive, or false;

3. Shall not appeal particularly to persons younger than 21 years of age, including by using cartoons in any way; and

4. Shall comply with any other provisions imposed by Board regulations.

G. Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For the purposes of this subsection, that method of age affirmation may include user confirmation, birth date disclosure, or any other similar registration method.

H. A licensee shall not give away any amount of retail marijuana or retail marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

J. The provisions of this section shall not apply to noncommercial speech.

§ 4.1-1405. Outdoor advertising; limitations; variances; compliance with Title 33.2.

A. No outdoor retail marijuana or retail marijuana products advertising shall be placed within 1,000 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility.

B. However, (i) if there is no building or structure on a playground or similar recreational or child-centered facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational or child-centered facility and (ii) if a public, private, or parochial school providing grades kindergarten through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face

8887 upon which the advertisement is placed to the nearest edge of a building or structure located on such real
8888 property across the road.

8889 C. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from
8890 (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private
8891 playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment
8892 facility, but the circumstances change such that the advertiser would otherwise be in violation of
8893 subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the
8894 term of any written advertising contract, but in no event more than one year from the date of the change
8895 in circumstances.

8896 D. Provided that such signs are in compliance with local ordinances, the distance and zoning
8897 restrictions contained in this section shall not apply to:

8898 1. Signs placed by licensees upon the property on which the licensed premises are located so long
8899 as such signs do not display imagery of marijuana or the use of marijuana or utilize long luminous gas-
8900 discharge tubes that contain rarefied neon or other gases; or

8901 2. Directional signs placed by marijuana manufacturing facility licensees or marijuana wholesaler
8902 licensees with advertising limited to trade names and brand names.

8903 E. The distance and zoning restrictions contained in this section shall not apply to any sign that is
8904 included in the Integrated Directional Sign Program administered by the Virginia Department of
8905 Transportation or its agents.

8906 F. A marijuana licensee shall not use any billboard advertisements or advertise at any sporting
8907 event in the Commonwealth.

8908 G. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply
8909 with the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2
8910 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any
8911 outdoor retail marijuana products directional sign located or to be located on highway rights of way shall
8912 also be governed by and comply with the Integrated Directional Sign Program administered by the
8913 Virginia Department of Transportation or its agents.

8914 CHAPTER 15.

8915 VIRGINIA CANNABIS EQUITY BUSINESS LOAN PROGRAM AND FUND.

8916 **§ 4.1-1500. Definitions.**

8917 As used in this chapter, unless the context requires a different meaning:

8918 "CDFI" means a community development financial institution that provides credit and financial
8919 services for underserved communities.

8920 "Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

8921 "Funding" means loans made from the Fund.

8922 "Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

8923 "Social equity qualified cannabis licensee" means a person or business who meets the criteria in §
8924 4.1-606 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring,
8925 as determined by the Board, a license to operate a cannabis business under § 4.1-606.

8926 **§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.**

8927 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
8928 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be
8929 established on the books of the Comptroller. All funds appropriated for such purpose and any gifts,
8930 donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and
8931 credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it.
8932 Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not
8933 revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the
8934 purposes of providing low-interest and zero-interest loans to social equity qualified cannabis licensees in
8935 order to foster business ownership and economic growth within communities that have been the most
8936 disproportionately impacted by the former prohibition of cannabis. Expenditures and disbursements from
8937 the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request
8938 signed by the Chief Executive Officer of the Authority.

8939 **§ 4.1-1502. Selection of CDFI; Program requirements; guidelines for management of the**
8940 **Fund.**

8941 A. The Authority shall establish a Program to provide loans to qualified social equity cannabis
8942 licensees for the purpose of promoting business ownership and economic growth by communities that
8943 have been disproportionately impacted by the prohibition of cannabis. The Authority shall select and work
8944 in collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the
8945 Fund. The CDFI selected by the Authority shall have (i) a statewide presence in Virginia, (ii) experience
8946 in business lending, (iii) a proven track record of working with disadvantaged communities, and (iv) the
8947 capability to dedicate sufficient staff to manage the Program. Working with the selected CDFI, the
8948 Authority shall establish monitoring and accountability mechanisms for businesses receiving funding and
8949 shall report annually the number of businesses funded; the geographic distribution of the businesses; the
8950 costs of the Program; and the outcomes, including the number and types of jobs created.

8951 B. The Program shall:

8952 1. Identify social equity qualified cannabis licensees who are in need of capital for the start-up of
8953 a cannabis business properly licensed pursuant to the provisions of this subtitle;

8954 2. Provide loans for the purposes described in subsection A;

8955 3. Provide technical assistance; and

8956 4. Bring together community partners to sustain the Program.

8957 **§ 4.1-1503. Annual reports.**

8958 On or before December 1 of each year, the Authority shall report to the Secretary of Public Safety
8959 and Homeland Security, the Officer of Diversity, Equity, and Inclusion, the Governor, and the Chairmen
8960 of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations on
8961 such other matters regarding the Fund as the Authority may deem appropriate, including the amount of
8962 funding committed to projects from the Fund, or other items as may be requested by any of the foregoing
8963 persons to whom such report is to be submitted.

8964 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs or**
8965 **marijuana; reckless operation.**

8966 Any person who shall operate any aircraft within the airspace over, above, or upon the lands or
8967 waters of this Commonwealth, while under the influence of intoxicating liquor or of any narcotic or

8968 marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a state
8969 correctional facility not less than one nor more than five years, or, in the discretion of the court or jury
8970 trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or both
8971 such fine and imprisonment.

8972 Any person who shall operate any aircraft within the airspace over, above, or upon the lands or
8973 waters of this Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or safety
8974 of others, or without due caution and circumspection and in a manner so as to endanger any person or
8975 property, ~~shall be~~ is guilty of a misdemeanor.

8976 **§ 6.2-107.1. Financial services for licensed marijuana establishments.**

8977 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as
8978 provided in § 4.1-600.

8979 B. A bank or credit union that provides a financial service to a licensed marijuana establishment,
8980 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to
8981 any state law or regulation solely for providing such a financial service or for further investing any income
8982 derived from such a financial service.

8983 C. Nothing in this section shall require a bank or credit union to provide financial services to a
8984 licensed marijuana establishment.

8985 **§ 9.1-101. (Effective until March 1, 2021) Definitions.**

8986 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context
8987 requires a different meaning:

8988 "Administration of criminal justice" means performance of any activity directly involving the
8989 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
8990 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
8991 storage, and dissemination of criminal history record information.

8992 "Board" means the Criminal Justice Services Board.

8993 "Conviction data" means information in the custody of any criminal justice agency relating to a
8994 judgment of conviction, and the consequences arising therefrom, in any court.

8995 "Correctional status information" means records and data concerning each condition of a convicted
8996 person's custodial status, including probation, confinement, work release, study release, escape, or
8997 termination of custody through expiration of sentence, parole, pardon, or court decision.

8998 "Criminal history record information" means records and data collected by criminal justice
8999 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
9000 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
9001 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
9002 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
9003 status information.

9004 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
9005 which as its principal function performs the administration of criminal justice and any other agency or
9006 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
9007 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
9008 the context of its criminal justice activities, employs special conservators of the peace appointed under
9009 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
9010 its officers or special conservators to meet compulsory training standards established by the Criminal
9011 Justice Services Board and submits reports of compliance with the training standards and (b) the private
9012 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
9013 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
9014 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
9015 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
9016 Violent Predators Act (§ 37.2-900 et seq.).

9017 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant
9018 to § 18.2-271.2.

9019 "Criminal justice agency" includes the Department of Criminal Justice Services.

9020 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

9021 "Criminal justice agency" includes the Virginia State Crime Commission.

9022 "Criminal justice information system" means a system including the equipment, facilities,
9023 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or
9024 dissemination of criminal history record information. The operations of the system may be performed
9025 manually or by using electronic computers or other automated data processing equipment.

9026 "Department" means the Department of Criminal Justice Services.

9027 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
9028 means. The term shall not include access to the information by officers or employees of a criminal justice
9029 agency maintaining the information who have both a need and right to know the information.

9030 "Law-enforcement officer" means any full-time or part-time employee of a police department or
9031 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
9032 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
9033 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
9034 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
9035 Authority or the Virginia Cannabis Control Authority; (ii) police agent appointed under the provisions of
9036 § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time
9037 sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who
9038 is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the
9039 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn
9040 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-
9041 217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police
9042 officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the
9043 investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
9044 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with
9045 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
9046 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private
9047 police officer employed by a private police department. Part-time employees are those compensated

9048 officers who are not full-time employees as defined by the employing police department, sheriff's office,
9049 or private police department.

9050 "Private police department" means any police department, other than a department that employs
9051 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
9052 authorized by statute or an act of assembly to establish a private police department or such entity's
9053 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
9054 to operate a private police department or represent that it is a private police department unless such entity
9055 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
9056 that has been authorized pursuant to this section, provided it complies with the requirements set forth
9057 herein. The authority of a private police department shall be limited to real property owned, leased, or
9058 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
9059 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
9060 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
9061 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
9062 with the private police department that addresses the duties and responsibilities of the private police
9063 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
9064 departments and private police officers shall be subject to and comply with the Constitution of the United
9065 States; the Constitution of Virginia; the laws governing municipal police departments, including the
9066 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any
9067 regulations adopted by the Board that the Department designates as applicable to private police
9068 departments. Any person employed as a private police officer pursuant to this section shall meet all
9069 requirements, including the minimum compulsory training requirements, for law-enforcement officers
9070 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§
9071 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or
9072 "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers
9073 Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any
9074 locality. An authorized private police department may use the word "police" to describe its sworn officers

9075 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
9076 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not
9077 otherwise established by statute or an act of assembly and whose status as a private police department was
9078 recognized by the Department at that time is hereby validated and may continue to operate as a private
9079 police department as may such entity's successor in interest, provided it complies with the requirements
9080 set forth herein.

9081 "School resource officer" means a certified law-enforcement officer hired by the local law-
9082 enforcement agency to provide law-enforcement and security services to Virginia public elementary and
9083 secondary schools.

9084 "School security officer" means an individual who is employed by the local school board or a
9085 private or religious school for the singular purpose of maintaining order and discipline, preventing crime,
9086 investigating violations of the policies of the school board or the private or religious school, and detaining
9087 students violating the law or the policies of the school board or the private or religious school on school
9088 property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety,
9089 security, and welfare of all students, faculty, staff, and visitors in the assigned school.

9090 "Unapplied criminal history record information" means information pertaining to criminal
9091 offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
9092 record of an arrested or convicted person (i) because such information is not supported by fingerprints or
9093 other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within
9094 the content of the submitted information.

9095 **§ 9.1-101. (Effective March 1, 2021) Definitions.**

9096 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context
9097 requires a different meaning:

9098 "Administration of criminal justice" means performance of any activity directly involving the
9099 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
9100 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
9101 storage, and dissemination of criminal history record information.

9102 "Board" means the Criminal Justice Services Board.

9103 "Conviction data" means information in the custody of any criminal justice agency relating to a
9104 judgment of conviction, and the consequences arising therefrom, in any court.

9105 "Correctional status information" means records and data concerning each condition of a convicted
9106 person's custodial status, including probation, confinement, work release, study release, escape, or
9107 termination of custody through expiration of sentence, parole, pardon, or court decision.

9108 "Criminal history record information" means records and data collected by criminal justice
9109 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
9110 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
9111 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
9112 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
9113 status information.

9114 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
9115 which as its principal function performs the administration of criminal justice and any other agency or
9116 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
9117 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
9118 the context of its criminal justice activities, employs special conservators of the peace appointed under
9119 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
9120 its officers or special conservators to meet compulsory training standards established by the Criminal
9121 Justice Services Board and submits reports of compliance with the training standards and (b) the private
9122 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
9123 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
9124 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
9125 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
9126 Violent Predators Act (§ 37.2-900 et seq.).

9127 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant
9128 to § 18.2-271.2.

9129 "Criminal justice agency" includes the Department of Criminal Justice Services.

9130 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

9131 "Criminal justice agency" includes the Virginia State Crime Commission.

9132 "Criminal justice information system" means a system including the equipment, facilities,
9133 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or
9134 dissemination of criminal history record information. The operations of the system may be performed
9135 manually or by using electronic computers or other automated data processing equipment.

9136 "Department" means the Department of Criminal Justice Services.

9137 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
9138 means. The term shall not include access to the information by officers or employees of a criminal justice
9139 agency maintaining the information who have both a need and right to know the information.

9140 "Law-enforcement officer" means any full-time or part-time employee of a police department or
9141 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
9142 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
9143 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
9144 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
9145 Authority or the Virginia Cannabis Control Authority; (ii) police agent appointed under the provisions of
9146 § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time
9147 sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who
9148 is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the
9149 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn
9150 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-
9151 217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police
9152 officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the
9153 investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
9154 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with
9155 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11

9156 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private
9157 police officer employed by a private police department. Part-time employees are those compensated
9158 officers who are not full-time employees as defined by the employing police department, sheriff's office,
9159 or private police department.

9160 "Private police department" means any police department, other than a department that employs
9161 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
9162 authorized by statute or an act of assembly to establish a private police department or such entity's
9163 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
9164 to operate a private police department or represent that it is a private police department unless such entity
9165 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
9166 that has been authorized pursuant to this section, provided it complies with the requirements set forth
9167 herein. The authority of a private police department shall be limited to real property owned, leased, or
9168 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
9169 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
9170 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
9171 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
9172 with the private police department that addresses the duties and responsibilities of the private police
9173 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
9174 departments and private police officers shall be subject to and comply with the Constitution of the United
9175 States; the Constitution of Virginia; the laws governing municipal police departments, including the
9176 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-
9177 1722; and any regulations adopted by the Board that the Department designates as applicable to private
9178 police departments. Any person employed as a private police officer pursuant to this section shall meet all
9179 requirements, including the minimum compulsory training requirements, for law-enforcement officers
9180 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§
9181 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or
9182 "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers

9183 Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any
9184 locality. An authorized private police department may use the word "police" to describe its sworn officers
9185 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
9186 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not
9187 otherwise established by statute or an act of assembly and whose status as a private police department was
9188 recognized by the Department at that time is hereby validated and may continue to operate as a private
9189 police department as may such entity's successor in interest, provided it complies with the requirements
9190 set forth herein.

9191 "School resource officer" means a certified law-enforcement officer hired by the local law-
9192 enforcement agency to provide law-enforcement and security services to Virginia public elementary and
9193 secondary schools.

9194 "School security officer" means an individual who is employed by the local school board or a
9195 private or religious school for the singular purpose of maintaining order and discipline, preventing crime,
9196 investigating violations of the policies of the school board or the private or religious school, and detaining
9197 students violating the law or the policies of the school board or the private or religious school on school
9198 property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety,
9199 security, and welfare of all students, faculty, staff, and visitors in the assigned school.

9200 "Unapplied criminal history record information" means information pertaining to criminal
9201 offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
9202 record of an arrested or convicted person (i) because such information is not supported by fingerprints or
9203 other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within
9204 the content of the submitted information.

9205 **§ 9.1-400. Title of chapter; definitions.**

9206 A. This chapter shall be known and designated as the Line of Duty Act.

9207 B. As used in this chapter, unless the context requires a different meaning:

9208 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under
9209 the will of a deceased person if testate, or as his heirs at law if intestate.

9210 "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line
9211 of duty as the direct or proximate result of the performance of his duty, including the presumptions under
9212 §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute,
9213 as a law-enforcement officer of the Commonwealth or any of its political subdivisions, except employees
9214 designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations
9215 of the Department of Corrections, employees designated pursuant to § 66-3 to investigate allegations of
9216 criminal behavior affecting the operations of the Department of Juvenile Justice, and members of the
9217 investigations unit of the State Inspector General designated pursuant to § 2.2-311 to investigate
9218 allegations of criminal behavior affecting the operations of a state or nonstate agency; a correctional
9219 officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy
9220 sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of
9221 any fire company or department or emergency medical services agency that has been recognized by an
9222 ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an
9223 integral part of the official safety program of such county, city, or town, including a person with a
9224 recognized membership status with such fire company or department who is enrolled in a Fire Service
9225 Training course offered by the Virginia Department of Fire Programs or any fire company or department
9226 training required in pursuit of qualification to become a certified firefighter; a member of any fire company
9227 providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National
9228 Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is
9229 serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty
9230 under Title 32 of the United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control
9231 Authority or the Virginia Cannabis Control Authority; ~~any~~ a regular or special conservation police officer
9232 who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant
9233 to the provisions of § 29.1-200; ~~any~~ a commissioned forest warden appointed under the provisions of §
9234 10.1-1135; ~~any~~ a member or employee of the Virginia Marine Resources Commission granted the power
9235 of arrest pursuant to § 28.2-900; ~~any~~ a Department of Emergency Management hazardous materials
9236 officer; any other employee of the Department of Emergency Management who is performing official

9237 duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-
9238 146.16, that has been or is later declared to exist under the authority of the Governor in accordance with
9239 § 44-146.28; ~~any an~~ employee of any county, city, or town performing official emergency management
9240 or emergency services duties in cooperation with the Department of Emergency Management, when those
9241 duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later
9242 declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency,
9243 as defined in § 44-146.16, declared by a local governing body; ~~any a~~ nonfirefighter regional hazardous
9244 materials emergency response team member; ~~any a~~ conservation officer of the Department of
9245 Conservation and Recreation commissioned pursuant to § 10.1-115; or ~~any a~~ full-time sworn member of
9246 the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

9247 "Disabled person" means any individual who has been determined to be mentally or physically
9248 incapacitated so as to prevent the further performance of his duties at the time of his disability where such
9249 incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or
9250 proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2,
9251 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position
9252 listed in the definition of deceased person in this section. "Disabled person" does not include any
9253 individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404.
9254 "Disabled person" includes any state employee included in the definition of a deceased person who was
9255 disabled on or after January 1, 1966.

9256 "Eligible dependent," for purposes of continued health insurance pursuant to § 9.1-401, means the
9257 natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled
9258 person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that
9259 occurred prior to the time of the employee's death or disability and that any such adopted child is (i)
9260 adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or
9261 disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability.
9262 Notwithstanding the foregoing, "eligible dependent" ~~shall also include~~ includes the natural or adopted
9263 child or children of a deceased person or disabled person born as the result of a pregnancy or adoption

9264 that occurred after the time of the employee's death or disability, but prior to July 1, 2017. Eligibility will
9265 continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible
9266 dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as
9267 determined by the Department of Human Resource Management.

9268 "Eligible spouse₂" for purposes of continued health insurance pursuant to § 9.1-401₂ means the
9269 spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will
9270 continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the
9271 spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible
9272 based on the Virginia Administrative Code or administrative guidance as determined by the Department
9273 of Human Resource Management.

9274 "Employee" means any person who would be covered or whose spouse, dependents, or
9275 beneficiaries would be covered under the benefits of this chapter if the person became a disabled person
9276 or a deceased person.

9277 "Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a
9278 volunteer who is a member of any fire company or department or rescue squad described in the definition
9279 of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire
9280 company or department or rescue squad as an integral part of the official safety program of such locality.

9281 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to §
9282 9.1-400.1.

9283 "Line of duty" means any action the deceased or disabled person was obligated or authorized to
9284 perform by rule, regulation, condition of employment or service, or law.

9285 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to §
9286 9.1-401.

9287 "Nonparticipating employer" means any employer that is a political subdivision of the
9288 Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not
9289 participate in the Fund.

9290 "Participating employer" means any employer that is a state agency or is a political subdivision of
9291 the Commonwealth that did not make an election to become a nonparticipating employer.

9292 "VRS" means the Virginia Retirement System.

9293 **§ 9.1-500. Definitions.**

9294 As used in this chapter, unless the context requires a different meaning:

9295 "Agency" means the Department of State Police, the Division of Capitol Police, the Virginia
9296 Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the
9297 Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, the Department
9298 of Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the
9299 campus police department of any public institution of higher education of the Commonwealth employing
9300 the law-enforcement officer.

9301 "Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent
9302 of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests
9303 and (ii) a nonprobationary officer of one of the following agencies:

9304 a. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources
9305 Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic
9306 Beverage Control Authority, the Virginia Cannabis Control Authority, the Department of Motor Vehicles,
9307 or the Department of Conservation and Recreation;

9308 b. The police department, bureau, or force of any political subdivision or the campus police
9309 department of any public institution of higher education of the Commonwealth where such department,
9310 bureau, or force has three or more law-enforcement officers; or

9311 c. Any conservation police officer as defined in § 9.1-101.

9312 For the purposes of this chapter, "law-enforcement officer" ~~shall~~ does not include the sheriff's
9313 department of any city or county.

9314 **§ 9.1-801. Public safety officer defined.**

9315 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the
9316 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a

9317 correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail
9318 officer; a regional jail or jail farm superintendent; a member of any fire company or department or
9319 nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or
9320 resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of
9321 the official safety program of such county, city, or town; an arson investigator; a member of the Virginia
9322 National Guard or the Virginia Defense Force while such a member is serving in the Virginia National
9323 Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United
9324 States Code; any special agent of the Virginia Alcoholic Beverage Control Authority or the Virginia
9325 Cannabis Control Authority; any police agent appointed under the provisions of § 56-353; any regular or
9326 special conservation police officer who receives compensation from a county, city, or town or from the
9327 Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant
9328 to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the
9329 power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials
9330 officer; any nonfirefighter regional hazardous materials emergency response team member; any
9331 investigator who is a full-time sworn member of the security division of the Virginia Lottery; any full-
9332 time sworn member of the enforcement division of the Department of Motor Vehicles meeting the
9333 Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any
9334 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
9335 23.1; and any conservation officer of the Department of Conservation and Recreation commissioned
9336 pursuant to § 10.1-115.

9337 **§ 9.1-1101. Powers and duties of the Department.**

9338 A. It shall be the responsibility of the Department to provide forensic laboratory services upon
9339 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical
9340 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff,
9341 or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department;
9342 the head of any private police department that has been designated as a criminal justice agency by the
9343 Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal

9344 matter. The Department shall provide such services to any federal investigatory agency within available
9345 resources.

9346 B. The Department shall:

9347 1. Provide forensic laboratory services to all law-enforcement agencies throughout the
9348 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the
9349 Commonwealth as needed;

9350 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et
9351 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

9352 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once
9353 every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of
9354 breath; and

9355 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC)
9356 in substances for the purposes of Title 4.1 and §§ 54.1-3401 and 54.1-3446. The testing methodology shall
9357 use post-decarboxylation testing or other equivalent method and shall consider the potential conversion
9358 of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC
9359 derived from the sum of the THC and THC-A content.

9360 C. The Department shall have the power and duty to:

9361 1. Receive, administer, and expend all funds and other assistance available for carrying out the
9362 purposes of this chapter;

9363 2. Make and enter into all contracts and agreements necessary or incidental to the performance of
9364 its duties and execution of its powers under this chapter including, but not limited to, contracts with the
9365 United States, units of general local government or combinations thereof in Virginia or other states, and
9366 with agencies and departments of the Commonwealth; and

9367 3. Perform such other acts as may be necessary or convenient for the effective performance of its
9368 duties.

9369 D. The Director may appoint and employ a deputy director and such other personnel as are needed
9370 to carry out the duties and responsibilities conferred by this chapter.

§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of \$500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of ~~§ 18.2-250.1~~, 18.2-268.3, 29.1-738.2, 46.2-341.20:7, or 46.2-341.26:3.

§ 15.2-2820. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and service of alcoholic beverages for consumption on the premises and where the sale or service of food or meals is incidental to the consumption of the alcoholic beverages.

"Educational facility" means any building used for instruction of enrolled students, including but not limited to any day-care center, nursery school, public or private school, institution of higher education, medical school, law school, or career and technical education school.

"Health care facility" means any institution, place, building, or agency required to be licensed under Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding home, assisted living facility, supervised living facility, or ambulatory medical and surgical center.

9398 "Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or
9399 occupant of a building or portion thereof used exclusively for club purposes, including club or member
9400 sponsored events; (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent,
9401 or athletic purposes, and only sells alcoholic beverages incidental to its operation; (iii) has established
9402 bylaws, a constitution, or both that govern its activities; and (iv) the affairs and management of which are
9403 conducted by a board of directors, executive committee, or similar body chosen by the members at an
9404 annual meeting.

9405 "Private function" means any gathering of persons for the purpose of deliberation, education,
9406 instruction, entertainment, amusement, or dining that is not intended to be open to the public and for which
9407 membership or specific invitation is a prerequisite to entry.

9408 "Private work place" means any office or work area that is not open to the public in the normal
9409 course of business except by individual invitation.

9410 "Proprietor" means the owner or lessee of the public place, who ultimately controls the activities
9411 within the public place. The term "proprietor" includes corporations, associations, or partnerships as well
9412 as individuals.

9413 "Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass
9414 transportation of persons in intrastate travel for compensation, including but not limited to any airplane,
9415 train, bus, or boat that is not subject to federal smoking regulations.

9416 "Public place" means any enclosed, indoor area used by the general public, including but not
9417 limited to any building owned or leased by the Commonwealth or any agency thereof or any locality,
9418 public conveyance or public vehicle, educational facility, hospital, nursing facility or nursing home, other
9419 health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum,
9420 concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting
9421 room.

9422 "Recreational facility" means any enclosed, indoor area used by the general public and used as a
9423 stadium, arena, skating rink, video game facility, or senior citizen recreational facility.

9424 "Restaurant" means any place where food is prepared for service to the public on or off the
9425 premises, or any place where food is served. Examples of such places include but are not limited to
9426 lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining
9427 accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining
9428 accommodations of public and private schools and colleges, and kitchen areas of local correctional
9429 facilities subject to standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where
9430 packaged or canned foods are manufactured and then distributed to grocery stores or other similar food
9431 retailers for sale to the public, (ii) mobile points of service to the general public that are outdoors, or (iii)
9432 mobile points of service where such service and consumption occur in a private residence or in any
9433 location that is not a public place. "Restaurant" shall include any bar or lounge area that is part of such
9434 restaurant.

9435 "Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any
9436 kind, including marijuana, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling
9437 of smoke from a pipe, cigar, or cigarette of any kind, including marijuana.

9438 "Theater" means any indoor facility or auditorium, open to the public, which is primarily used or
9439 designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture,
9440 or other similar performance.

9441 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of**
9442 **fines; prepayment of local ordinances.**

9443 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
9444 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic
9445 infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted.
9446 Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any
9447 parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic
9448 offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without
9449 court appearance whether or not he was involved in an accident. The prepayable fine amount for a

9450 violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits,
9451 as authorized in § 46.2-878.3.

9452 Such infractions shall not include:

9453 1. Indictable offenses;

9454 2. [Repealed.]

9455 3. Operation of a motor vehicle while under the influence of intoxicating liquor, marijuana, or a
9456 narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating
9457 liquor, marijuana, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant
9458 or in his custody or control;

9459 4. Reckless driving;

9460 5. Leaving the scene of an accident;

9461 6. Driving while under suspension or revocation of driving privileges;

9462 7. Driving without being licensed to drive.

9463 8. [Repealed.]

9464 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
9465 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver
9466 of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged,
9467 with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his
9468 signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record
9469 of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

9470 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall
9471 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to
9472 be imposed, designating each infraction specifically. The schedule, which may from time to time be
9473 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
9474 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
9475 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall

9476 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
9477 with the provisions of this Code or any rules or regulations promulgated thereunder.

9478 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state
9479 law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection
9480 B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of
9481 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be
9482 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such
9483 order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit
9484 court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform
9485 in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit
9486 the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be
9487 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the
9488 provisions of this Code or any rules or regulations promulgated thereunder.

9489 **§ 16.1-69.48:1. (Effective until March 1, 2021) Fixed fee for misdemeanors, traffic**
9490 **infractions, and other violations in district court; additional fees to be added.**

9491 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court
9492 hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing
9493 and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a
9494 finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant
9495 successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver
9496 improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-
9497 1105, 4.1-1120, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-303.2, or 19.2-303.6; or (vi) proof of
9498 compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716,
9499 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

9500 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever
9501 a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such
9502 failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the

9503 applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in
9504 absence related to that incident. However, when a defendant who has multiple charges arising from the
9505 same incident and who has been assessed a fixed fee for one of those charges is later convicted of another
9506 charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference
9507 between the fixed fee earlier assessed and the higher fixed fee.

9508 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident
9509 even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

9510 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk
9511 shall also assess any costs otherwise specifically provided by statute.

9512 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection
9513 C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for
9514 the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts
9515 designated:

- 9516 1. Processing fee (General Fund) (.573770);
9517 2. Virginia Crime Victim-Witness Fund (.049180);
9518 3. Regional Criminal Justice Training Academies Fund (.016393);
9519 4. Courthouse Construction/Maintenance Fund (.032787);
9520 5. Criminal Injuries Compensation Fund (.098361);
9521 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
9522 7. Sentencing/supervision fee (General Fund) (.131148); and
9523 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

9524 C. In criminal actions and proceedings in district court for a violation of any provision of Article
9525 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.
9526 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to
9527 the following funds in the fractional amounts designated:

- 9528 1. Processing fee (General Fund) (.257353);
9529 2. Virginia Crime Victim-Witness Fund (.022059);

- 9530 3. Regional Criminal Justice Training Academies Fund (.007353);
- 9531 4. Courthouse Construction/Maintenance Fund (.014706);
- 9532 5. Criminal Injuries Compensation Fund (.044118);
- 9533 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 9534 7. Drug Offender Assessment and Treatment Fund (.551471);
- 9535 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 9536 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).
- 9537 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
- 9538 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law,
- 9539 to the following funds in the fractional amounts designated:
- 9540 1. Processing fee (General Fund) (.764706);
- 9541 2. Virginia Crime Victim-Witness Fund (.058824);
- 9542 3. Regional Criminal Justice Training Academies Fund (.019608);
- 9543 4. Courthouse Construction/Maintenance Fund (.039216);
- 9544 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 9545 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).
- 9546 **§ 16.1-69.48:1. (Effective March 1, 2021) Fixed fee for misdemeanors, traffic infractions and**
- 9547 **other violations in district court; additional fees to be added.**
- 9548 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court
- 9549 hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing
- 9550 and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a
- 9551 finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant
- 9552 successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver
- 9553 improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-
- 9554 1105, 4.1-1120, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or
- 9555 (vi) proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715,
- 9556 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

9557 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever
9558 a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such
9559 failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the
9560 applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in
9561 absence related to that incident. However, when a defendant who has multiple charges arising from the
9562 same incident and who has been assessed a fixed fee for one of those charges is later convicted of another
9563 charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference
9564 between the fixed fee earlier assessed and the higher fixed fee.

9565 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident
9566 even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

9567 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk
9568 shall also assess any costs otherwise specifically provided by statute.

9569 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection
9570 C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for
9571 the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts
9572 designated:

- 9573 1. Processing fee (General Fund) (.573770);
9574 2. Virginia Crime Victim-Witness Fund (.049180);
9575 3. Regional Criminal Justice Training Academies Fund (.016393);
9576 4. Courthouse Construction/Maintenance Fund (.032787);
9577 5. Criminal Injuries Compensation Fund (.098361);
9578 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
9579 7. Sentencing/supervision fee (General Fund)(.131148); and
9580 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

9581 C. In criminal actions and proceedings in district court for a violation of any provision of Article
9582 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.

9583 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to
9584 the following funds in the fractional amounts designated:

- 9585 1. Processing fee (General Fund) (.257353);
- 9586 2. Virginia Crime Victim-Witness Fund (.022059);
- 9587 3. Regional Criminal Justice Training Academies Fund (.007353);
- 9588 4. Courthouse Construction/Maintenance Fund (.014706);
- 9589 5. Criminal Injuries Compensation Fund (.044118);
- 9590 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 9591 7. Drug Offender Assessment and Treatment Fund (.551471);
- 9592 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 9593 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

9594 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
9595 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law,
9596 to the following funds in the fractional amounts designated:

- 9597 1. Processing fee (General Fund) (.764706);
- 9598 2. Virginia Crime Victim-Witness Fund (.058824);
- 9599 3. Regional Criminal Justice Training Academies Fund (.019608);
- 9600 4. Courthouse Construction/Maintenance Fund (.039216);
- 9601 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 9602 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

9603 **§ 16.1-228. Definitions.**

9604 As used in this chapter, unless the context requires a different meaning:

9605 "Abused or neglected child" means any child:

- 9606 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or
9607 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than
9608 accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental
9609 functions, including, but not limited to, a child who is with his parent or other person responsible for his

9610 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance,
9611 or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his
9612 care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony
9613 violation of § 18.2-248;

9614 2. Whose parents or other person responsible for his care neglects or refuses to provide care
9615 necessary for his health; however, no child who in good faith is under treatment solely by spiritual means
9616 through prayer in accordance with the tenets and practices of a recognized church or religious
9617 denomination shall for that reason alone be considered to be an abused or neglected child;

9618 3. Whose parents or other person responsible for his care abandons such child;

9619 4. Whose parents or other person responsible for his care commits or allows to be committed any
9620 sexual act upon a child in violation of the law;

9621 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental
9622 or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco
9623 parentis;

9624 6. Whose parents or other person responsible for his care creates a substantial risk of physical or
9625 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as
9626 defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the
9627 parent or other person responsible for his care knows has been convicted of an offense against a minor for
9628 which registration is required as a Tier III offender pursuant to § 9.1-902; or

9629 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined
9630 in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal
9631 Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

9632 If a civil proceeding under this chapter is based solely on the parent having left the child at a
9633 hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely
9634 delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency
9635 medical services agency that employs emergency medical services personnel, within 14 days of the child's

9636 birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the
9637 court may find such a child is a neglected child upon the ground of abandonment.

9638 "Adoptive home" means the place of residence of any natural person in which a child resides as a
9639 member of the household and in which he has been placed for the purposes of adoption or in which he has
9640 been legally adopted by another member of the household.

9641 "Adult" means a person 18 years of age or older.

9642 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part
9643 of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent
9644 act that would be a felony if committed by an adult.

9645 "Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly
9646 structured components including, but not limited to, military style drill and ceremony, physical labor,
9647 education and rigid discipline, and no less than six months of intensive aftercare.

9648 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for
9649 purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title
9650 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

9651 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or
9652 results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of
9653 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and
9654 physical safety of another person; however, no child who in good faith is under treatment solely by
9655 spiritual means through prayer in accordance with the tenets and practices of a recognized church or
9656 religious denomination shall for that reason alone be considered to be a child in need of services, nor shall
9657 any child who habitually remains away from or habitually deserts or abandons his family as a result of
9658 what the court or the local child protective services unit determines to be incidents of physical, emotional
9659 or sexual abuse in the home be considered a child in need of services for that reason alone.

9660 However, to find that a child falls within these provisions, (i) the conduct complained of must
9661 present a clear and substantial danger to the child's life or health or to the life or health of another person,
9662 (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received,

9663 and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed
9664 by the child or his family.

9665 "Child in need of supervision" means:

9666 1. A child who, while subject to compulsory school attendance, is habitually and without
9667 justification absent from school, and (i) the child has been offered an adequate opportunity to receive the
9668 benefit of any and all educational services and programs that are required to be provided by law and which
9669 meet the child's particular educational needs, (ii) the school system from which the child is absent or other
9670 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,
9671 and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-
9672 258; or

9673 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian
9674 or placement authority, remains away from or deserts or abandons his family or lawful custodian on more
9675 than one occasion or escapes or remains away without proper authority from a residential care facility in
9676 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the
9677 child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not
9678 presently being received, and (iii) the intervention of the court is essential to provide the treatment,
9679 rehabilitation or services needed by the child or his family.

9680 "Child welfare agency" means a child-placing agency, child-caring institution or independent
9681 foster home as defined in § 63.2-100.

9682 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the
9683 juvenile and domestic relations district court of each county or city.

9684 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an
9685 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-
9686 308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act other
9687 than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed
9688 by a child. For purposes of §§ 16.1-241 and 16.1-278.9, "delinquent act" includes a refusal to take a breath
9689 test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town. ~~For purposes of §§~~

9690 16.1 241, 16.1 273, 16.1 278.8, 16.1 278.8:01, and 16.1 278.9, "delinquent act" includes a violation of §
9691 18.2 250.1.

9692 "Delinquent child" means a child who has committed a delinquent act or an adult who has
9693 committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court
9694 has been terminated under the provisions of § 16.1-269.6.

9695 "Department" means the Department of Juvenile Justice and "Director" means the administrative
9696 head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
9697 duties imposed upon him under this law.

9698 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2,
9699 or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the
9700 highways.

9701 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or
9702 places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by
9703 a person against such person's family or household member. Such act includes, but is not limited to, any
9704 forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter
9705 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable
9706 apprehension of death, sexual assault, or bodily injury.

9707 "Family or household member" means (i) the person's spouse, whether or not he or she resides in
9708 the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the
9709 same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters,
9710 half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in
9711 the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-
9712 law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual
9713 who has a child in common with the person, whether or not the person and that individual have been
9714 married or have resided together at any time, or (vi) any individual who cohabits or who, within the
9715 previous 12 months, cohabited with the person, and any children of either of them then residing in the
9716 same home with the person.

9717 "Fictive kin" means persons who are not related to a child by blood or adoption but have an
9718 established relationship with the child or his family.

9719 "Foster care services" means the provision of a full range of casework, treatment and community
9720 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in
9721 need of services as defined in this section and his family when the child (i) has been identified as needing
9722 services to prevent or eliminate the need for foster care placement, (ii) has been placed through an
9723 agreement between the local board of social services or a public agency designated by the community
9724 policy and management team and the parents or guardians where legal custody remains with the parents
9725 or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare
9726 agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-
9727 293.

9728 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in
9729 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing
9730 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed
9731 to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile
9732 Justice, in a living arrangement in which such child or person does not have daily substitute parental
9733 supervision.

9734 "Independent living services" means services and activities provided to a child in foster care 14
9735 years of age or older and who has been committed or entrusted to a local board of social services, child
9736 welfare agency, or private child-placing agency. "Independent living services" may also mean services
9737 and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached
9738 the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment
9739 to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a
9740 child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the
9741 Department of Juvenile Justice immediately prior to placement in an independent living arrangement.
9742 "Independent living services" includes counseling, education, housing, employment, and money

9743 management skills development and access to essential documents and other appropriate services to help
9744 children or persons prepare for self-sufficiency.

9745 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of
9746 this chapter.

9747 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional
9748 facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell
9749 for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a
9750 child to a juvenile facility.

9751 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district
9752 court of each county or city.

9753 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced
9754 in this chapter.

9755 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right
9756 to have physical custody of the child, to determine and redetermine where and with whom he shall live,
9757 the right and duty to protect, train and discipline him and to provide him with food, shelter, education and
9758 ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status
9759 created by court order of joint custody as defined in § 20-107.2.

9760 "Permanent foster care placement" means the place of residence in which a child resides and in
9761 which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and
9762 agreement between the placing agency and the place of permanent foster care that the child shall remain
9763 in the placement until he reaches the age of majority unless modified by court order or unless removed
9764 pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of
9765 any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

9766 "Qualified individual" means a trained professional or licensed clinician who is not an employee
9767 of the local board of social services or licensed child-placing agency that placed the child in a qualified
9768 residential treatment program and is not affiliated with any placement setting in which children are placed
9769 by such local board of social services or licensed child-placing agency.

9770 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
9771 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
9772 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
9773 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
9774 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
9775 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
9776 outreach with the child's family members, including efforts to maintain connections between the child and
9777 his siblings and other family; documents and maintains records of such outreach efforts; and maintains
9778 contact information for any known biological family and fictive kin of the child; (v) whenever appropriate
9779 and in the best interest of the child, facilitates participation by family members in the child's treatment
9780 program before and after discharge and documents the manner in which such participation is facilitated;
9781 (vi) provides discharge planning and family-based aftercare support for at least six months after discharge;
9782 (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by
9783 the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the
9784 program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses
9785 the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional
9786 assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the
9787 child can be met through placement with a family member or in a foster home or, if not, in a placement
9788 setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that
9789 would provide the most effective and appropriate level of care for the child in the least restrictive
9790 environment and be consistent with the short-term and long-term goals established for the child in his
9791 foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral
9792 health goals for the child; and (d) is documented in a written report to be filed with the court prior to any
9793 hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

9794 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with
9795 the parent after the transfer of legal custody or guardianship of the person, including but not limited to the

9796 right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility
9797 for support.

9798 "Secure facility" or "detention home" means a local, regional or state public or private locked
9799 residential facility that has construction fixtures designed to prevent escape and to restrict the movement
9800 and activities of children held in lawful custody.

9801 "Shelter care" means the temporary care of children in physically unrestricting facilities.

9802 "State Board" means the State Board of Juvenile Justice.

9803 "Status offender" means a child who commits an act prohibited by law which would not be criminal
9804 if committed by an adult.

9805 "Status offense" means an act prohibited by law which would not be an offense if committed by
9806 an adult.

9807 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of §
9808 16.1-269.1 when committed by a juvenile 14 years of age or older.

9809 **§ 16.1-260. Intake; petition; investigation.**

9810 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing
9811 of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
9812 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
9813 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
9814 and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However,
9815 (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with
9816 the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign,
9817 and file petitions and motions relating to the establishment, modification, or enforcement of support on
9818 forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees
9819 of a local department of social services may complete, sign, and file with the clerk, on forms approved by
9820 the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning
9821 hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or
9822 review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf

9823 of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be
9824 in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child
9825 shall be referred initially to the local department of social services in accordance with the provisions of
9826 Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be
9827 filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall
9828 inquire whether the petitioner is receiving child support services or public assistance. No individual who
9829 is receiving support services or public assistance shall be denied the right to file a petition or motion to
9830 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child
9831 support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the
9832 petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

9833 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
9834 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
9835 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
9836 communications and proceedings shall be conducted in the same manner as if the appearance were in
9837 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or
9838 executed by the officer or person to whom sent, and returned in the same manner, and with the same force,
9839 effect, authority, and liability as an original document. All signatures thereon shall be treated as original
9840 signatures. Any two-way electronic video and audio communication system used for an appearance shall
9841 meet the standards as set forth in subsection B of § 19.2-3.1.

9842 When the court service unit of any court receives a complaint alleging facts which may be
9843 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer,
9844 may proceed informally to make such adjustment as is practicable without the filing of a petition or may
9845 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish
9846 probable cause for the issuance of the petition.

9847 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
9848 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent
9849 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for

9850 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed
9851 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for
9852 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had
9853 previously been proceeded against informally by intake or had been adjudicated delinquent for an offense
9854 that would be a felony if committed by an adult.

9855 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258
9856 and the attendance officer has provided documentation to the intake officer that the relevant school
9857 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with
9858 the court. The intake officer may defer filing the petition and proceed informally by developing a truancy
9859 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated
9860 in need of supervision on more than two occasions for failure to comply with compulsory school
9861 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication
9862 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents,
9863 guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy
9864 plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or
9865 other person standing in loco parentis participate in such programs, cooperate in such treatment, or be
9866 subject to such conditions and limitations as necessary to ensure the juvenile's compliance with
9867 compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the
9868 appropriate public agency for the purpose of developing a truancy plan using an interagency
9869 interdisciplinary team approach. The team may include qualified personnel who are reasonably available
9870 from the appropriate department of social services, community services board, local school division, court
9871 service unit, and other appropriate and available public and private agencies and may be the family
9872 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the
9873 juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer
9874 shall file the petition.

9875 Whenever informal action is taken as provided in this subsection on a complaint alleging that a
9876 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a

9877 plan for the juvenile, which may include restitution and the performance of community service, based
9878 upon community resources and the circumstances which resulted in the complaint, (B) create an official
9879 record of the action taken by the intake officer and file such record in the juvenile's case file, and (C)
9880 advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the
9881 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent
9882 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241
9883 may result in the filing of a petition with the court.

9884 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
9885 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
9886 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
9887 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
9888 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective
9889 order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force,
9890 or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
9891 152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file
9892 a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in
9893 need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause
9894 does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile
9895 or that the matter may be effectively dealt with by some agency other than the court, he may refuse to
9896 authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order
9897 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures
9898 and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or
9899 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
9900 152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits
9901 applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

9902 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
9903 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in

9904 need of supervision have utilized or attempted to utilize treatment and services available in the community
9905 and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake
9906 officer determines that the parties have not attempted to utilize available treatment or services or have not
9907 exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the
9908 child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to
9909 receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that
9910 the parties have made a reasonable effort to utilize available community treatment or services may he
9911 permit the petition to be filed.

9912 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
9913 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in
9914 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate
9915 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
9916 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer
9917 shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds
9918 that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may
9919 be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses
9920 to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or
9921 a misdemeanor other than Class 1, his decision is final.

9922 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256,
9923 the intake officer shall accept and file a petition founded upon the warrant.

9924 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
9925 which alleges facts of an offense which would be a felony if committed by an adult.

9926 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
9927 report with the division superintendent of the school division in which any student who is the subject of a
9928 petition alleging that such student who is a juvenile has committed an act, wherever committed, which
9929 would be a crime if committed by an adult, or that such student who is an adult has committed a crime

9930 and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent
9931 of the filing of the petition and the nature of the offense, if the violation involves:

9932 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
9933 299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

9934 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

9935 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
9936 Title 18.2;

9937 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

9938 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
9939 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

9940 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (~~§ 18.2-247 4.1-~~
9941 ~~1100 et seq.) of Chapter 7 of Title 18.2 4.1;~~

9942 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

9943 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9944 9. Robbery pursuant to § 18.2-58;

9945 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

9946 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

9947 12. An act of violence by a mob pursuant to § 18.2-42.1;

9948 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

9949 14. A threat pursuant to § 18.2-60.

9950 The failure to provide information regarding the school in which the student who is the subject of
9951 the petition may be enrolled shall not be grounds for refusing to file a petition.

9952 The information provided to a division superintendent pursuant to this section may be disclosed
9953 only as provided in § 16.1-305.2.

9954 H. The filing of a petition shall not be necessary:

9955 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking
9956 and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating

9957 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.
9958 In such cases the court may proceed on a summons issued by the officer investigating the violation in the
9959 same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident
9960 may, at the scene of the accident or at any other location where a juvenile who is involved in such an
9961 accident may be located, proceed on a summons in lieu of filing a petition.

9962 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection
9963 H of § 16.1-241.

9964 3. In the case of a misdemeanor violation of § 4.1-1104, 18.2-266, 18.2-266.1, or 29.1-738, or the
9965 commission of any other alcohol-related offense, ~~or a violation of § 18.2-250.1~~, provided that the juvenile
9966 is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing
9967 a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also
9968 issue a summons requiring the parent or legal guardian to appear before the court with the juvenile.
9969 Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9.
9970 If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738
9971 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis
9972 pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be
9973 followed except that the magistrate shall authorize execution of the warrant as a summons. The summons
9974 shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be
9975 forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or ~~18.2-250.1~~
9976 4.1-1104 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for
9977 consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by
9978 written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a
9979 violation of § 4.1-305 or ~~18.2-250.1~~ 4.1-1104 is served, the officer shall also serve upon the juvenile
9980 written notice of the right to have the charge referred to intake on a form approved by the Supreme Court
9981 and make return of such service to the court. If the officer fails to make such service or return, the court
9982 shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, or (c) a violation of ~~§ 18.2-250.1~~ 4.1-1104, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

10009 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
10010 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
10011 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
10012 physical, psychological, or economic injury as a result of the violation of law.

10013 **§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug**
10014 **tests; costs and fees; education or treatment programs.**

10015 Whenever any juvenile who has not previously been found delinquent of any offense under
10016 Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or
10017 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant,
10018 depressant or hallucinogenic drugs, or has not previously had a proceeding against him for a violation of
10019 such an offense dismissed as provided in § 4.1-1120 or 18.2-251, is found delinquent of any offense
10020 concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical
10021 substances and like substances, the juvenile court or the circuit court shall require such juvenile to undergo
10022 a substance abuse screening pursuant to § 16.1-273 and to submit to such periodic substance abuse testing,
10023 to include alcohol testing, as may be directed by the court. Such testing shall be conducted by a court
10024 services unit of the Department of Juvenile Justice, or by a locally operated court services unit or by
10025 personnel of any program or agency approved by the Department. The cost of such testing ordered by the
10026 court shall be paid by the Commonwealth from funds appropriated to the Department for this purpose.
10027 The court shall also order the juvenile to undergo such treatment or education program for substance
10028 abuse, if available, as the court deems appropriate based upon consideration of the substance abuse
10029 assessment. The treatment or education shall be provided by a program licensed by the Department of
10030 Behavioral Health and Developmental Services or by a similar program available through a facility or
10031 program operated by or under contract to the Department of Juvenile Justice or a locally operated court
10032 services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-
10033 309.2 et seq.).

10034 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
10035 **offenses; truancy.**

10036 A. If a court has found facts which would justify a finding that a child at least 13 years of age at
10037 the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
10038 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii)
10039 a felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~ or 18.2-250;
10040 (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or
10041 18.2-250 or a violation of ~~§ 18.2-250.1~~, 4.1-1105; (v) the unlawful purchase, possession, or consumption
10042 of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on
10043 public school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a
10044 similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or
10045 possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order,
10046 in addition to any other penalty that it may impose as provided by law for the offense, that the child be
10047 denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves
10048 a violation designated under clause (i) and the child was transporting a person 17 years of age or younger,
10049 the court shall impose the additional fine and order community service as provided in § 18.2-270. If the
10050 offense involves a violation designated under clause (i), (ii), (iii) or (viii), the denial of a driver's license
10051 shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first
10052 such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer,
10053 for a second or subsequent such offense. If the offense involves a violation designated under clause (iv),
10054 (v) or (vi) the denial of driving privileges shall be for a period of six months unless the offense is
10055 committed by a child under the age of 16 years and three months, in which case the child's ability to apply
10056 for a driver's license shall be delayed for a period of six months following the date he reaches the age of
10057 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court
10058 shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of
10059 guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case
10060 pursuant to subsection F of this section. If the offense involves a violation designated under clause (iii) or
10061 (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to
10062 the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause

10063 (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense
10064 involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any
10065 semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding
10066 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless
10067 the offense is committed by a child under the age of 16 years and three months, in which event the child's
10068 ability to apply for a driver's license shall be delayed for a period of two years following the date he
10069 reaches the age of 16 and three months.

10070 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
10071 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
10072 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of
10073 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period
10074 of not less than 30 days following the date he reaches the age of 16 and three months.

10075 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
10076 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's
10077 ability to apply for a driver's license for a period of one year following the date he reaches the age of 16
10078 and three months, as may be appropriate.

10079 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
10080 of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or
10081 until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one
10082 year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such
10083 offense.

10084 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
10085 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held
10086 in the physical custody of the court during any period of license denial.

10087 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
10088 which shall preserve a record thereof. The report and the record shall include a statement as to whether
10089 the child was represented by or waived counsel or whether the order was issued pursuant to subsection

10090 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) ~~of this chapter~~ or the
10091 provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for
10092 the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department
10093 of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

10094 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
10095 driver's license until such time as is stipulated in the court order or until notification by the court of
10096 withdrawal of the order of denial under subsection E.

10097 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
10098 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol
10099 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may
10100 set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or
10101 (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon
10102 such terms and conditions as the court may set forth.

10103 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
10104 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
10105 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set
10106 forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license
10107 shall be issued for travel to and from home and school when school-provided transportation is available
10108 and no restricted license shall be issued if the finding as to such child involves a violation designated
10109 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense
10110 designated in subsection A, a second finding by the court of failure to comply with school attendance and
10111 meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a
10112 refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set
10113 forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate
10114 the restrictions imposed and contain such information regarding the child as is reasonably necessary to
10115 identify him. The child may operate a motor vehicle under the court order in accordance with its terms.

10116 Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section
10117 is guilty of a violation of § 46.2-301.

10118 E. Upon petition made at least 90 days after issuance of the order, the court may review and
10119 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
10120 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed
10121 and withdrawn until one year after its issuance.

10122 F. If the finding as to such child involves a first violation designated under clause (vii) of
10123 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's
10124 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or
10125 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
10126 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
10127 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
10128 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
10129 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a
10130 violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant
10131 to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the
10132 finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the
10133 charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

10134 **§ 17.1-276. Fee allowed for providing secure remote access to land records.**

10135 A. A clerk of the circuit court who provides secure remote access to land records pursuant to §
10136 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and
10137 deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as
10138 defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined
10139 in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an
10140 amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to
10141 cover operational expenses as defined in § 17.1-295.

10142 The Office of the Attorney General, the Division of Debt Collection, the Department of
10143 Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department
10144 of General Services, the Department of Conservation and Recreation, the Department of Forestry, the
10145 Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, and the
10146 Department of Rail and Public Transportation shall be exempt from paying any fee for remote access to
10147 land records. If any clerk contracts with an outside vendor to provide remote access to land records to
10148 subscribers, such contract shall contain a provision exempting the Office of the Attorney General, the
10149 Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the
10150 Department of Historic Resources, the Department of General Services, the Department of Conservation
10151 and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority, the
10152 Virginia Cannabis Control Authority, and the Department of Rail and Public Transportation from paying
10153 any access or subscription fee.

10154 B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes
10155 to have remote access, in accordance with the security standards established by the Virginia Information
10156 Technologies Agency. Any such agreement between a state agency or employee thereof acting in the
10157 employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote
10158 access to land records to subscribers, or such an agreement between a state agency or employee thereof
10159 acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain any
10160 provision requiring the state agency or employee thereof acting in the employee's official capacity to
10161 indemnify the clerk or the vendor. Any such agreement between a state agency and the clerk or an outside
10162 vendor shall provide that the state agency is required to monitor its employees' activity under such
10163 agreement to ensure compliance with its terms.

10164 C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee
10165 that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image
10166 downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

10167 D. Nothing herein shall be construed to require the use by the general public of the secure remote
10168 access to land records made available by the clerk, and such records may continue to be accessed in person
10169 in the clerk's office.

10170 **§ 18.2-46.1. Definitions.**

10171 As used in this article unless the context requires otherwise or it is otherwise provided:

10172 "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

10173 "Criminal street gang" means any ongoing organization, association, or group of three or more
10174 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
10175 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
10176 symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt
10177 to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of
10178 which is an act of violence, provided such acts were not part of a common act or transaction.

10179 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-
10180 46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55,
10181 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-
10182 127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2,
10183 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01,
10184 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346,
10185 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101 or 18.2-248 ~~or of 18.2-248.1~~ or a conspiracy
10186 to commit a felony violation of § 4.1-1101 or 18.2-248 ~~or 18.2-248.1~~; (v) any violation of a local ordinance
10187 adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state
10188 or territory of the United States, the District of Columbia, or the United States.

10189 **§ 18.2-57. Assault and battery; penalty.**

10190 A. Any person who commits a simple assault or assault and battery is guilty of a Class 1
10191 misdemeanor, and if the person intentionally selects the person against whom a simple assault is
10192 committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation,

10193 color, or national origin, the penalty upon conviction shall include a term of confinement of at least six
10194 months.

10195 B. However, if a person intentionally selects the person against whom an assault and battery
10196 resulting in bodily injury is committed because of his race, religious conviction, gender, disability, gender
10197 identity, sexual orientation, color, or national origin, the person is guilty of a Class 6 felony, and the
10198 penalty upon conviction shall include a term of confinement of at least six months.

10199 C. In addition, if any person commits an assault or an assault and battery against another knowing
10200 or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as
10201 defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care,
10202 treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a
10203 local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in
10204 the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in
10205 the custody of or under the supervision of the Department of Juvenile Justice, an employee or other
10206 individual who provides control, care, or treatment of sexually violent predators committed to the custody
10207 of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § 65.2-
10208 102, or a volunteer firefighter or any emergency medical services personnel member who is employed by
10209 or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire
10210 department or volunteer emergency medical services agency, regardless of whether a resolution has been
10211 adopted by the governing body of a political subdivision recognizing such firefighters or emergency
10212 medical services personnel as employees, engaged in the performance of his public duties anywhere in
10213 the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such
10214 person shall include a mandatory minimum term of confinement of six months.

10215 Nothing in this subsection shall be construed to affect the right of any person charged with a
10216 violation of this section from asserting and presenting evidence in support of any defenses to the charge
10217 that may be available under common law.

10218 D. In addition, if any person commits a battery against another knowing or having reason to know
10219 that such other person is a full-time or part-time employee of any public or private elementary or secondary

10220 school and is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and
10221 the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which
10222 shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a
10223 firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a
10224 mandatory minimum sentence of confinement of six months.

10225 E. In addition, any person who commits a battery against another knowing or having reason to
10226 know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the
10227 performance of his duties in a hospital or in an emergency room on the premises of any clinic or other
10228 facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such
10229 person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall
10230 be a mandatory minimum term of confinement.

10231 F. As used in this section:

10232 "Disability" means a physical or mental impairment that substantially limits one or more of a
10233 person's major life activities.

10234 "Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.)
10235 of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

10236 "Judge" means any justice or judge of a court of record of the Commonwealth including a judge
10237 designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore
10238 under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers'
10239 Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge
10240 of such district court.

10241 "Law-enforcement officer" means any full-time or part-time employee of a police department or
10242 sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof
10243 who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or
10244 highway laws of the Commonwealth, any conservation officer of the Department of Conservation and
10245 Recreation commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage
10246 Control Authority or the Virginia Cannabis Control Authority, any conservation police-officers officer

appointed pursuant to § 29.1-200, any full-time sworn ~~members~~ member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, ~~and~~ any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, ~~and such officer also includes~~ any jail ~~officers~~ officer in a local ~~and or~~ regional correctional ~~facilities~~ facility, ~~all~~ any deputy ~~sheriffs~~ sheriff, whether assigned to law-enforcement duties, court services or local jail responsibilities, any auxiliary police ~~officers~~ officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, any auxiliary deputy ~~sheriffs~~ sheriff appointed pursuant to § 15.2-1603, any police ~~officers~~ officer of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and any fire ~~marshals~~ marshal appointed pursuant to § 27-30 when such fire ~~marshals have~~ marshal has police powers as set out in §§ 27-34.2 and 27-34.2:1.

"School security officer" means the same as that term is defined in § 9.1-101.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school security officer or full-time or part-time employee of any public or private elementary or secondary school while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a school security officer or full-time or part-time employee of any public or private elementary or secondary school at the time of the event.

§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

10273 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in
10274 Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-
10275 3400 et seq.).

10276 B. The term "imitation controlled substance₂" when used in this article₂ means (i) a counterfeit
10277 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a
10278 controlled substance subject to abuse, and:

10279 1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging
10280 or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
10281 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
10282 into commerce prior to the initial introduction into commerce of the controlled substance which it is
10283 alleged to imitate; or

10284 2. Which by express or implied representations purports to act like a controlled substance as a
10285 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
10286 use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless
10287 marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

10288 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
10289 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
10290 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
10291 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
10292 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
10293 representations, oral or written, concerning the drug, and the methods of distribution of the drug and where
10294 and how it is sold to the public.

10295 ~~D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis,~~
10296 ~~whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or~~
10297 ~~preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.~~
10298 ~~Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, oil or cake~~
10299 ~~made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of~~

plants of the genus *Cannabis*. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

~~F. The Department of Forensic Science shall determine the proper methods for detecting the concentration of delta 9 tetrahydrocannabinol (THC) in substances for the purposes of this title and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of delta 9 tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC-A content.~~

§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties.

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ is unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill,

10327 capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of
10328 such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at
10329 which over-the-counter substances of like chemical composition sell.

10330 C. Except as provided in subsection C1, any person who violates this section with respect to a
10331 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than
10332 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a
10333 violation, and it is alleged in the warrant, indictment, or information that the person has been before
10334 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense
10335 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date
10336 of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion
10337 of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less
10338 than five years, three years of which shall be a mandatory minimum term of imprisonment to be served
10339 consecutively with any other sentence, and he shall be fined not more than \$500,000.

10340 When a person is convicted of a third or subsequent offense under this subsection and it is alleged
10341 in the warrant, indictment or information that he has been before convicted of two or more such offenses
10342 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed
10343 in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the
10344 warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not
10345 less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served
10346 consecutively with any other sentence, and he shall be fined not more than \$500,000.

10347 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
10348 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million
10349 and imprisonment for five years to life, five years of which shall be a mandatory minimum term of
10350 imprisonment to be served consecutively with any other sentence:

- 10351 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
10352 2. 500 grams or more of a mixture or substance containing a detectable amount of:

- 10353 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
10354 derivatives of ecgonine or their salts have been removed;
- 10355 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 10356 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- 10357 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
10358 referred to in subdivisions ~~2a through 2e~~ a, b, and c;
- 10359 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~
10360 that contain cocaine base; or
- 10361 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
10362 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or
10363 salts of its isomers.
- 10364 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection
10365 shall not be applicable if the court finds that:
- 10366 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 10367 b. The person did not use violence or credible threats of violence or possess a firearm or other
10368 dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- 10369 c. The offense did not result in death or serious bodily injury to any person;
- 10370 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and
10371 was not engaged in a continuing criminal enterprise as defined in subsection I; and
- 10372 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
10373 Commonwealth all information and evidence the person has concerning the offense or offenses that were
10374 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
10375 relevant or useful other information to provide or that the Commonwealth already is aware of the
10376 information shall not preclude a determination by the court that the defendant has complied with this
10377 requirement.
- 10378 C1. Any person who violates this section with respect to the manufacturing of methamphetamine,
10379 its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a

10380 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
10381 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
10382 second conviction of such a violation, any such person may, in the discretion of the court or jury imposing
10383 the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined
10384 not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection
10385 and it is alleged in the warrant, indictment, or information that he has been previously convicted of two
10386 or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would
10387 be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the
10388 offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life
10389 or for a period not less than 10 years, three years of which shall be a mandatory minimum term of
10390 imprisonment to be served consecutively with any other sentence and he shall be fined not more than
10391 \$500,000.

10392 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall
10393 be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
10394 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
10395 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
10396 expenses associated with cleanup, removal, or repair of the affected property. If the property that is
10397 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
10398 property owned in whole or in part by the person convicted, the court shall order the person to pay to the
10399 Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses
10400 associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses
10401 cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that
10402 any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according
10403 to the guidelines established pursuant to § 32.1-11.7.

10404 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
10405 controlled substance classified in Schedule I or II only as an accommodation to another individual who is
10406 not an inmate in a community correctional facility, local correctional facility or state correctional facility

10407 as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from
10408 any consideration received or expected nor to induce the recipient or intended recipient of the controlled
10409 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty
10410 of a Class 5 felony.

10411 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
10412 prescription of a person authorized under this article to issue the same, which prescription has not been
10413 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
10414 received by the pharmacist within one week of the time of filling the same, or if such violation consists of
10415 a request by such authorized person for the filling by a pharmacist of a prescription which has not been
10416 received in writing by the pharmacist and such prescription is, in fact, written at the time of such request
10417 and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4
10418 misdemeanor.

10419 E1. Any person who violates this section with respect to a controlled substance classified in
10420 Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-
10421 248.5, ~~shall be~~ is guilty of a Class 5 felony.

10422 E2. Any person who violates this section with respect to a controlled substance classified in
10423 Schedule IV ~~shall be~~ is guilty of a Class 6 felony.

10424 E3. Any person who proves that he gave, distributed or possessed with the intent to give or
10425 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified
10426 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual
10427 who is not an inmate in a community correctional facility, local correctional facility or state correctional
10428 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit
10429 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
10430 the controlled substance to use or become addicted to or dependent upon such controlled substance, is
10431 guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance ~~which~~ that imitates a controlled substance classified in Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance ~~which~~ that imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give or distribute the following:

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the substances referred to in subdivisions a ~~through~~ b, and c;
3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which~~ that contains cocaine base; or
4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana;~~
- ~~or~~
5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or

10459 credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense
10460 or induce another participant in the offense to do so; (iii) the offense did not result in death or serious
10461 bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others
10462 in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this
10463 section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the
10464 Commonwealth all information and evidence the person has concerning the offense or offenses that were
10465 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
10466 relevant or useful other information to provide or that the Commonwealth already is aware of the
10467 information shall not preclude a determination by the court that the defendant has complied with this
10468 requirement.

10469 H1. Any person who was the principal or one of several principal administrators, organizers or
10470 leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at
10471 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from
10472 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the
10473 derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
10474 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or
10475 distribute the following during any 12-month period of its existence:

10476 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
10477 detectable amount of heroin;

10478 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a
10479 detectable amount of:

10480 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
10481 derivatives of ecgonine or their salts have been removed;

10482 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

10483 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

10484 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
10485 substances referred to in subdivisions a ~~through b~~, and c;

10486 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
10487 subdivision 2 ~~which~~ that contains cocaine base; or

10488 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
10489 ~~detectable amount of marijuana; or~~

10490 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of
10491 its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
10492 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

10493 A conviction under this section shall be punishable by a fine of not more than \$1 million and
10494 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

10495 H2. Any person who was the principal or one of several principal administrators, organizers or
10496 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts
10497 during any 12-month period of its existence from the manufacture, importation, or distribution of heroin
10498 or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof
10499 ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess
10500 with the intent to manufacture, sell, give or distribute the following during any 12-month period of its
10501 existence:

10502 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

10503 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

10504 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
10505 derivatives of ecgonine or their salts have been removed;

10506 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

10507 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

10508 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
10509 substances referred to in subdivisions a ~~through~~ b, and c;

10510 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ that contains
10511 cocaine base; or

10512 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana;~~

10513 or

10514 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
10515 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
10516 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1
10517 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
10518 punishment shall be made to run consecutively with any other sentence. However, the court may impose
10519 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
10520 with law-enforcement authorities.

10521 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
10522 violates any provision of this section, the punishment for which is a felony and either (ii) such violation
10523 is a part of a continuing series of violations of this section which are undertaken by such person in concert
10524 with five or more other persons with respect to whom such person occupies a position of organizer, a
10525 supervisory position, or any other position of management, and from which such person obtains
10526 substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or
10527 other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in
10528 association with any criminal street gang as defined in § 18.2-46.1.

10529 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses
10530 any two or more different substances listed below with the intent to manufacture methamphetamine,
10531 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,
10532 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture
10533 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,
10534 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium
10535 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane,
10536 or 2-propanone.

10537 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
10538 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
10539 salts of optical isomers.

10540 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

10541 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to
10542 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
10543 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II
10544 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~
10545 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.
10546 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years
10547 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
10548 to exceed \$1,000,000. A second or subsequent conviction hereunder shall be punishable by a mandatory
10549 minimum term of imprisonment of 10 years, which shall be served consecutively with any other sentence.

10550 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**
10551 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
10552 **costs and fees; violations; discharge.**

10553 Whenever any person who has not previously been convicted of any criminal offense under this
10554 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or
10555 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
10556 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of
10557 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts
10558 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the
10559 consent of the accused, may defer further proceedings and place him on probation upon terms and
10560 conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk
10561 of court has been provided with the fingerprint identification information or fingerprints of the person,
10562 taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and
10563 photograph of the person be taken by a law-enforcement officer.

10564 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
10565 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
10566 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
10567 based upon consideration of the substance abuse assessment. The program or services may be located in
10568 the judicial district in which the charge is brought or in any other judicial district as the court may provide.
10569 The services shall be provided by (i) a program licensed by the Department of Behavioral Health and
10570 Developmental Services, by a similar program which is made available through the Department of
10571 Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or
10572 (iii) an ASAP program certified by the Commission on VASAP.

10573 The court shall require the person entering such program under the provisions of this section to
10574 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
10575 treatment, based upon the accused's ability to pay unless the person is determined by the court to be
10576 indigent.

10577 As a condition of probation, the court shall require the accused (a) to successfully complete
10578 treatment or education program or services, (b) to remain drug and alcohol free during the period of
10579 probation and submit to such tests during that period as may be necessary and appropriate to determine if
10580 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,
10581 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours
10582 of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising
10583 probation agency or personnel of any program or agency approved by the supervising probation agency.

10584 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
10585 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
10586 court has been provided with the fingerprint identification information or fingerprints of such person, the
10587 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under
10588 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this
10589 section in subsequent proceedings.

10590 Notwithstanding any other provision of this section, whenever a court places an individual on
10591 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
10592 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for
10593 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

10594 **§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.**

10595 There is hereby established in the state treasury the Drug Offender Assessment and Treatment
10596 Fund, which shall consist of moneys received from ~~(i) fees imposed on certain drug offense convictions~~
10597 ~~pursuant to § 16.1-69.48:3 and subdivisions A 10 and 11 of § 17.1-275 and (ii) civil penalties imposed for~~
10598 ~~violations of § 18.2-250.1.~~ All interest derived from the deposit and investment of moneys in the Fund
10599 shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall remain in the
10600 Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the general fund
10601 at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation by the General
10602 Assembly to the Department of Corrections, the Department of Juvenile Justice, and the Commission on
10603 VASAP to implement and operate the offender substance abuse screening and assessment program; the
10604 Department of Criminal Justice Services for the support of community-based probation and local pretrial
10605 services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia for the
10606 support of drug treatment court programs.

10607 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

10608 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
10609 consumption or use of a controlled substance, alcohol, or any combination of such substances.

10610 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
10611 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of
10612 marijuana pursuant to § 4.1-1104 or 4.1-1105, possession of a controlled substance pursuant to § 18.2-
10613 ~~250, possession of marijuana pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-388, or
10614 possession of controlled paraphernalia pursuant to § 54.1-3466 if:

10615 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,
10616 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an

10617 overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains
10618 emergency medical attention for such individual, by contemporaneously reporting such overdose to a
10619 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a
10620 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

10621 2. Such individual remains at the scene of the overdose or at any alternative location to which he
10622 or the person requiring emergency medical attention has been transported until a law-enforcement officer
10623 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose
10624 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set
10625 forth herein;

10626 3. Such individual identifies himself to the law-enforcement officer who responds to the report of
10627 the overdose; and

10628 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
10629 result of the individual seeking or obtaining emergency medical attention.

10630 C. The provisions of this section shall not apply to any person who seeks or obtains emergency
10631 medical attention for himself or another individual, or to a person experiencing an overdose when another
10632 individual seeks or obtains emergency medical attention for him, during the execution of a search warrant
10633 or during the conduct of a lawful search or a lawful arrest.

10634 D. This section does not establish protection from arrest or prosecution for any individual or
10635 offense other than those listed in subsection B.

10636 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
10637 determined that the person arrested was immune from prosecution under this section.

10638 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

10639 No school nurse employed by a local school board, person employed by a local health department
10640 who is assigned to the public school pursuant to an agreement between the local health department and
10641 the school board, or other person employed by or contracted with a local school board to deliver health-
10642 related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-~~
10643 ~~248.1, 18.2-250, 18.2-250.1,~~ or 18.2-255 for the possession or distribution of cannabis oil for storing,

10644 dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school board,
10645 to a student who has been issued a valid written certification for the use of cannabis oil in accordance with
10646 subsection B of § 54.1-3408.3.

10647 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**
10648 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

10649 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
10650 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
10651 under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1, or 18.2-250, or 18.2-250.1~~
10652 for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering
10653 cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis
10654 oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

10655 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.**

10656 No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or
10657 industrial hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower,
10658 or a licensed industrial hemp processor for the purpose of performing required testing shall be prosecuted
10659 under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1, 18.2-250, 18.2-250.1, or 18.2-~~
10660 ~~255~~ for the possession or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or
10661 industrial hemp for testing purposes in accordance with regulations promulgated by the Board of
10662 Pharmacy and the Board of Agriculture and Consumer Services.

10663 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment,**
10664 **testing, and treatment or education.**

10665 The trial judge or court trying the case of any person found guilty of a criminal violation of any
10666 law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious
10667 chemical substances and like substances shall condition any suspended sentence by first requiring such
10668 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such
10669 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing
10670 shall be conducted by the supervising probation agency or by personnel of any program or agency

10671 approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid
10672 by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order
10673 the person, as a condition of any suspended sentence, to undergo such treatment or education for substance
10674 abuse, if available, as the judge or court deems appropriate based upon consideration of the substance
10675 abuse assessment. The treatment or education shall be provided by a program or agency licensed by the
10676 Department of Behavioral Health and Developmental Services, by a similar program or services available
10677 through the Department of Corrections if the court imposes a sentence of one year or more or, if the court
10678 imposes a sentence of 12 months or less, by a similar program or services available through a local or
10679 regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an
10680 ASAP program certified by the Commission on VASAP.

10681 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

10682 A. Whenever any person who has not previously been convicted of any criminal offense under this
10683 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~,
10684 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for
10685 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law
10686 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical
10687 substances, and like substances, the judge or court shall require such person to undergo a substance abuse
10688 screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include
10689 alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid
10690 by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court
10691 shall also order the person to undergo such treatment or education for substance abuse, if available, as the
10692 judge or court deems appropriate based upon consideration of the substance abuse assessment. The
10693 treatment or education shall be provided by a program or agency licensed by the Department of Behavioral
10694 Health and Developmental Services or by a similar program or services available through the Department
10695 of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of
10696 12 months or less, by a similar program or services available through a local or regional jail, a local

10697 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program
10698 certified by the Commission on VASAP.

10699 B. The court trying the case of any person alleged to have committed any criminal offense
10700 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in
10701 which the commission of the offense was motivated by or closely related to the use of drugs and
10702 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of
10703 treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment,
10704 such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed
10705 by the Department of Behavioral Health and Developmental Services, if space is available in such facility,
10706 for a period of time not in excess of the maximum term of imprisonment specified as the penalty for
10707 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of
10708 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as
10709 confinement in a penal institution and the person so committed may be convicted of escape if he leaves
10710 the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction
10711 where the treatment facility is located or the jurisdiction where the person was sentenced to commitment.
10712 The court may revoke such commitment at any time and transfer the person to an appropriate state or local
10713 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
10714 to the effect that the confined person has successfully responded to treatment, the court may release such
10715 confined person prior to the termination of the period of time for which such person was confined and
10716 may suspend the remainder of the term upon such conditions as the court may prescribe.

10717 C. The court trying a case in which commission of the criminal offense was related to the
10718 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse
10719 screening and assessment, that such defendant is in need of treatment, may commit, based upon a
10720 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the
10721 treatment of persons with substance abuse licensed by the Department of Behavioral Health and
10722 Developmental Services, if space is available in such facility, for a period of time not in excess of the
10723 maximum term of imprisonment specified as the penalty for conviction. Confinement under such

commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.

A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1~~, it shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug classified in Schedule I, II, III or IV ~~or marijuana~~ to any person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug classified in Schedule I, II, III or IV ~~or marijuana~~. Any person violating this provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

B. It shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled substance. Any person violating this provision shall be is guilty of a Class 6 felony.

§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in administering marijuana or controlled substances to minors; penalty.

It shall be a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a minor any book, pamphlet, periodical or other printed matter which he knows advertises for sale any

instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering, preparing or growing ~~marijuana~~ or a controlled substance.

§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.

A. It ~~shall be~~ is unlawful for any person to manufacture, sell or distribute or possess with intent to sell, give or distribute any controlled substance, or imitation controlled substance, ~~or marijuana~~ while:

1. (Effective until July 1, 2021) Upon the property, including buildings and grounds, of any public or private elementary or secondary school, any institution of higher education, or any clearly marked licensed child day center as defined in § 63.2-100;

1. (Effective July 1, 2021) Upon the property, including buildings and grounds, of any public or private elementary or secondary school, any institution of higher education, or any clearly marked licensed child day center as defined in § 22.1-289.02;

2. Upon public property or any property open to public use within 1,000 feet of the property described in subdivision 1;

3. On any school bus as defined in § 46.2-100;

4. Upon a designated school bus stop, or upon either public property or any property open to public use which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; or

6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property open to public use within 1,000 feet of such an institution. It is a violation of the provisions of this section if the person possessed the controlled substance, or imitation controlled substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give or distribute the controlled substance, or imitation controlled substance, ~~or marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

10776 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
10777 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor
10778 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for
10779 an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§
10780 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum
10781 term of imprisonment of one year to be served consecutively with any other sentence. However, if such
10782 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another
10783 individual and not with intent to profit thereby from any consideration received or expected nor to induce
10784 the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to
10785 or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

10786 C. If a person commits an act violating the provisions of this section, and the same act also violates
10787 another provision of law that provides for penalties greater than those provided for by this section, then
10788 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
10789 law or the imposition of any penalties provided for thereby.

10790 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

10791 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
10792 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with
10793 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,
10794 or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances
10795 ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,
10796 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,
10797 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.
10798 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant
10799 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1
10800 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

10801 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment or building or structure of any kind which is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter or delay lawful entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery.

A. ~~It shall be~~ is unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. ~~It shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by ~~Chapter 34~~ the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~.

C. ~~It shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of a controlled substance ~~or marijuana~~ a license number which is fictitious, revoked, suspended, or issued to another person.

D. ~~It shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person.

E. ~~It shall be~~ is unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. ~~It shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

10829 G. This section shall not apply to officers and employees of the United States, of this
10830 Commonwealth or of a political subdivision of this Commonwealth acting in the course of their
10831 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or
10832 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for
10833 investigative, research or analytical purposes and who are acting in the course of their employment;
10834 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic
10835 Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized
10836 representatives file with the Board such information as the Board may deem appropriate.

10837 H. Except as otherwise provided in this subsection, any person who shall violate any provision
10838 herein ~~shall be~~ is guilty of a Class 6 felony.

10839 Whenever any person who has not previously been convicted of any offense under this article or
10840 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
10841 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
10842 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not
10843 guilty to the court for violating this section, upon such plea if the facts found by the court would justify a
10844 finding of guilt, the court may place him on probation upon terms and conditions.

10845 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
10846 and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs
10847 of the accused. This program may be located in the judicial circuit in which the charge is brought or in
10848 any other judicial circuit as the court may provide. The services shall be provided by a program certified
10849 or licensed by the Department of Behavioral Health and Developmental Services. The court shall require
10850 the person entering such program under the provisions of this section to pay all or part of the costs of the
10851 program, including the costs of the screening, evaluation, testing and education, based upon the person's
10852 ability to pay unless the person is determined by the court to be indigent.

10853 As a condition of supervised probation, the court shall require the accused to remain drug free
10854 during the period of probation and submit to such tests during that period as may be necessary and
10855 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of

10856 any screening, evaluation, and education program to which the person is referred or by the supervising
10857 agency.

10858 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to
10859 report to the original arresting law-enforcement agency to submit to fingerprinting.

10860 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
10861 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
10862 shall find the defendant guilty of a Class 1 misdemeanor.

10863 **§ 18.2-265.1. Definition.**

10864 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials
10865 of any kind which are either designed for use or which are intended by the person charged with violating
10866 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
10867 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,
10868 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
10869 the human body ~~marijuana or~~ a controlled substance. It includes, but is not limited to:

10870 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or
10871 harvesting of ~~marijuana or~~ any species of plant which is a controlled substance or from which a controlled
10872 substance can be derived;

10873 2. Kits intended for use or designed for use in manufacturing, compounding, converting,
10874 producing, processing, or preparing ~~marijuana or~~ controlled substances;

10875 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
10876 ~~or~~ any species of plant ~~which~~ that is a controlled substance;

10877 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
10878 or effectiveness of ~~marijuana or~~ controlled substances, other than narcotic testing products used to
10879 determine whether a controlled substance contains fentanyl or a fentanyl analog;

10880 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana or~~
10881 controlled substances;

- 10882 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use
10883 or designed for use in cutting controlled substances;
- 10884 ~~7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds~~
10885 ~~from, or in otherwise cleaning or refining, marijuana;~~
- 10886 ~~8.~~ Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
10887 compounding controlled substances;
- 10888 ~~9-8.~~ Capsules, balloons, envelopes, and other containers intended for use or designed for use in
10889 packaging small quantities of ~~marijuana~~ or controlled substances;
- 10890 ~~10-9.~~ Containers and other objects intended for use or designed for use in storing or concealing
10891 ~~marijuana~~ or controlled substances;
- 10892 ~~11-10.~~ Hypodermic syringes, needles, and other objects intended for use or designed for use in
10893 parenterally injecting controlled substances into the human body;
- 10894 ~~12-11.~~ Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
10895 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:
- 10896 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
10897 screens, ~~hashish heads~~, or punctured metal bowls;
- 10898 b. Water pipes;
- 10899 c. Carburetion tubes and devices;
- 10900 d. Smoking and carburetion masks;
- 10901 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that
10902 has become too small or too short to be held in the hand;
- 10903 f. Miniature cocaine spoons, and cocaine vials;
- 10904 g. Chamber pipes;
- 10905 h. Carburetor pipes;
- 10906 i. Electric pipes;
- 10907 j. Air-driven pipes;
- 10908 k. Chillums;

1. Bongs;

m. Ice pipes or chillers.

§ 18.2-265.2. Evidence to be considered in cases under this article.

In determining whether an object is drug paraphernalia, the court may consider, in addition to all other relevant evidence, the following:

1. Constitutionally admissible statements by the accused concerning the use of the object;

2. The proximity of the object to ~~marijuana or~~ controlled substances, which proximity is actually known to the accused;

3. Instructions, oral or written, provided with the object concerning its use;

4. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;

5. National and local advertising within the actual knowledge of the accused concerning its use;

6. The manner in which the object is displayed for sale;

7. Whether the accused is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business enterprise;

9. The existence and scope of legitimate uses for the object in the community;

10. Expert testimony concerning its use or the purpose for which it was designed; and

11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.

A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it is either designed for use or intended by such person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or

otherwise introduce into the human body ~~marijuana or~~ a controlled substance, ~~shall be~~ is guilty of a Class 1 misdemeanor.

B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ is guilty of a Class 6 felony.

C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ is guilty of a Class 1 misdemeanor.

Article 1.4.

Unlawful Possession and Consumption of Marijuana.

§ 18.2-265.22. Possession of marijuana unlawful in certain cases; venue; exceptions; penalties; forfeiture; deferred proceedings; treatment and education programs and services; penalty.

A. It is unlawful for any person under 21 years of age to knowingly or intentionally possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$250 for a first offense and shall be ordered to enter a substance abuse treatment or education program, or both, if available, that in the opinion of the court best suits the needs of the accused. A person 18 years of age or older who is convicted under subsection A of a second offense is guilty of a Class 3 misdemeanor and of a third or subsequent offense is guilty of a Class 2 misdemeanor.

When any person 18 years of age or older who has not previously violated subsection A or been convicted of a violation of former § 18.2-250.1 or a similar offense in any other state or the United States is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found by the

10963 court would justify a finding of guilt of a violation of subsection A, shall, without entering a judgment of
10964 guilt, defer further proceedings and place the accused on probation subject to appropriate conditions. As
10965 a term and condition, the court shall require the accused to enter a substance abuse treatment or education
10966 program, or both, if available, that in the opinion of the court best suits the needs of the accused. If the
10967 accused is placed on local community-based probation, the program or services shall be located in any of
10968 the judicial districts served by the local community-based probation services agency.

10969 Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise
10970 provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the
10971 proceedings against the person without an adjudication of guilt. A discharge and dismissal hereunder shall
10972 be treated as a conviction for the purpose of applying this section in any subsequent proceedings.

10973 C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$200 for a
10974 first offense, and the court shall require the accused to enter a substance abuse treatment or education
10975 program, or both, if available, that in the opinion of the court best suits the needs of the accused. For
10976 purposes of §§ 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as
10977 delinquent.

10978 For a second and any subsequent violation of subsection A, such juvenile is guilty of a Class 3
10979 misdemeanor, and the court shall require the accused to enter a substance abuse treatment or education
10980 program, or both, if available, that in the opinion of the court best suits the needs of the accused.

10981 D. Any such substance abuse treatment or education program to which a person is ordered pursuant
10982 to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and
10983 Developmental Services or (ii) a program or services made available through a community-based
10984 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if
10985 one has been established for the locality. When an offender is ordered to a local community-based
10986 probation services agency, the local community-based probation services agency shall be responsible for
10987 providing for services or referring the offender to education or treatment services as a condition of
10988 probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

§ 18.2-265.23. Using or consuming marijuana while in a motor vehicle being driven upon a public highway; penalty.

A. For the purposes of this section:

"Open container" means any vessel containing marijuana.

"Passenger area" means the area designed to seat the driver of any motor vehicle; any area within the reach of the driver, including an unlocked glove compartment; and the area designed to seat passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle, or any similar vehicle; the living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the transportation of such persons.

B. It is unlawful for any person to use or consume marijuana while driving a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor vehicle being driven upon a public highway of the Commonwealth.

C. A judge or jury may make a permissive inference that a person has consumed marijuana in violation of this section if (i) an open container is located within the passenger area of the motor vehicle; (ii) the marijuana in the open container has been at least partially removed; and (iii) the appearance, conduct, speech, or other physical characteristic of such person, excluding odor, is consistent with the consumption of marijuana. Such person may be prosecuted either (a) in the county or city in which the marijuana was used or consumed or (b) in the county or city in which the person exhibits evidence of physical indicia of use or consumption of marijuana.

D. Any person who violates this section is guilty of a Class 1 misdemeanor.

§ 18.2-265.24. Consuming marijuana or offering to another, in public place; penalty.

If any person consumes marijuana or offers marijuana to another, whether accepted or not, at or in any public place, such person is guilty of a Class 4 misdemeanor.

§ 18.2-265.25. Consuming or possessing marijuana in or on public school grounds; penalty.

A. No person shall possess or consume any marijuana in or upon the grounds of any public elementary or secondary school during school hours or school or student activities.

B. In addition, no person shall consume and no organization shall serve any marijuana in or upon the grounds of any public elementary or secondary school after school hours or school or student activities.

C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.

§ 18.2-265.26. Possessing or consuming marijuana while operating a school bus; penalty.

Any person who possesses or consumes marijuana while operating a school bus and transporting children is guilty of a Class 1 misdemeanor. For the purposes of this section, "school bus" has the same meaning as provided in § 46.2-100.

§ 18.2-265.27. Limitation on carrying retail marijuana or retail marijuana products in motor vehicle transporting passengers for hire; penalty.

The transportation of marijuana in any motor vehicle that is being used, or is licensed, for the transportation of passengers for hire is prohibited, except when carried in the possession of a passenger who is being transported for compensation at the regular rate and fare charged other passengers.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

§ 18.2-265.28. Search without warrant; odor of marijuana.

A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any person, place, or thing solely on the basis of the odor of marijuana, and no evidence discovered or obtained pursuant to a violation of this subsection, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.

B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the violation occurs in a commercial motor vehicle as defined in § 46.2-341.4.

§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.

Any person who, while committing a crime of violence as defined in § 18.2-288-(2) or a felony violation of § 18.2-248 or subdivision (a) 2 or 3 of § 18.2-248.1, has in his possession a firearm or knife

and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~
is guilty of a Class 4 felony.

§ 18.2-308.03. Fees for concealed handgun permits.

A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application.

B. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority or as a law-enforcement officer with the Department of State Police, the Department of Wildlife Resources, or a sheriff or police department, bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination

of the agencies listed in clauses (ii) ~~through (iii)~~, and (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55; (vii) as a correctional officer as defined in § 53.1-1, after completing 15 years of service; or (viii) as a probation and parole officer authorized pursuant to § 53.1-143, after completing 15 years of service.

§ 18.2-308.09. Disqualifications for a concealed handgun permit.

The following persons shall be deemed disqualified from obtaining a permit:

1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other state or of the United States.

1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, or 18.2-308.1:7 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a restoration order may be obtained in accordance with subsection C of that section.

11095 7. An individual who has been convicted of two or more misdemeanors within the five-year period
11096 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the
11097 judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic
11098 infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this
11099 disqualification.

11100 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
11101 cannabinoids, or any controlled substance.

11102 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar
11103 local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
11104 state, the District of Columbia, the United States, or its territories within the three-year period immediately
11105 preceding the application.

11106 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11107 11. An individual who has been discharged from the armed forces of the United States under
11108 dishonorable conditions.

11109 12. An individual who is a fugitive from justice.

11110 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts
11111 by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
11112 of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating
11113 that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a
11114 disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a
11115 weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the
11116 attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy
11117 sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written
11118 statement made under oath before a notary public of a competent person having personal knowledge of
11119 the specific acts.

11120 14. An individual who has been convicted of any assault, assault and battery, sexual battery,
11121 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation
11122 of § 18.2-282 within the three-year period immediately preceding the application.

11123 15. An individual who has been convicted of stalking.

11124 16. An individual whose previous convictions or adjudications of delinquency were based on an
11125 offense that would have been at the time of conviction a felony if committed by an adult under the laws
11126 of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier,
11127 only convictions occurring within 16 years following the later of the date of (i) the conviction or
11128 adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be
11129 deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an
11130 individual with previous adjudications of delinquency who has completed a term of service of no less than
11131 two years in the Armed Forces of the United States and, if such person has been discharged from the
11132 Armed Forces of the United States, received an honorable discharge.

11133 17. An individual who has a felony charge pending or a charge pending for an offense listed in
11134 subdivision 14 or 15.

11135 18. An individual who has received mental health treatment or substance abuse treatment in a
11136 residential setting within five years prior to the date of his application for a concealed handgun permit.

11137 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period
11138 immediately preceding the application for the permit, was found guilty of any criminal offense set forth
11139 in Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or
11140 of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any
11141 controlled substance, under the laws of any state, the District of Columbia, or the United States or its
11142 territories.

11143 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within
11144 the three-year period immediately preceding the application, upon a charge of any criminal offense set
11145 forth in Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1
11146 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any

controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

§ 18.2-308.012. Prohibited conduct.

A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, marijuana, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, or the Virginia Cannabis Control Authority, any employee with internal investigations authority designated

11174 by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of
11175 Corrections, any conservation police officer retired from the Department of Wildlife Resources, any
11176 conservation officer retired from the Department of Conservation and Recreation, any Virginia Marine
11177 Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission,
11178 any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired
11179 from a campus police department, any retired member of the enforcement division of the Department of
11180 Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of
11181 the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related
11182 disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission,
11183 board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave
11184 from such law-enforcement agency or board due to a service-related injury, provided such officer carries
11185 with him written proof of consultation with and favorable review of the need to carry a concealed handgun
11186 issued by the chief law-enforcement officer of the last such agency from which the officer retired or the
11187 agency that employs the officer or, in the case of special agents, issued by the State Corporation
11188 Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, or the Virginia Cannabis Control
11189 Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief,
11190 Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information
11191 Network. The chief law-enforcement officer shall not without cause withhold such written proof if the
11192 retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in
11193 clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such
11194 proof of consultation upon return to work as a law-enforcement officer or upon termination of employment
11195 with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State
11196 Police for entry into the Virginia Criminal Information Network. However, if such officer retires on
11197 disability because of the service-related injury, and would be eligible under clause (i) for written proof of
11198 consultation to carry a concealed handgun, he may retain the previously issued written proof of
11199 consultation.

11200 2. Any person who is eligible for retirement with at least 20 years of service with a law-
11201 enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing
11202 from such law-enforcement agency, commission, or board to accept a position covered by a retirement
11203 system that is authorized under Title 51.1, provided such person carries with him written proof of
11204 consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-
11205 enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the
11206 State Corporation Commission~~or~~, the Virginia Alcoholic Beverage Control Authority, or the Virginia
11207 Cannabis Control Authority. A copy of the proof of consultation and favorable review shall be forwarded
11208 by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal
11209 Information Network. The chief law-enforcement officer shall not without cause withhold such written
11210 proof if the law-enforcement officer otherwise meets the requirements of this section.

11211 3. Any State Police officer who is a member of the organized reserve forces of any of the Armed
11212 Services of the United States or National Guard, while such officer is called to active military duty,
11213 provided such officer carries with him written proof of consultation with and favorable review of the need
11214 to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and
11215 favorable review shall be valid as long as the officer is on active military duty and shall expire when the
11216 officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable
11217 review shall be entered into the Virginia Criminal Information Network. The Superintendent of State
11218 Police shall not without cause withhold such written proof if the officer is in good standing and is qualified
11219 to carry a weapon while on active law-enforcement duty.

11220 4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the
11221 Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement
11222 or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for
11223 qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries
11224 with him written proof of consultation with and favorable review of the need to carry a concealed handgun
11225 issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the
11226 requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement

11227 Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review
11228 shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into
11229 the Virginia Criminal Information Network.

11230 B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a
11231 retired or resigned law-enforcement officer, including a retired or resigned attorney for the
11232 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
11233 review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned
11234 law-enforcement officer's expense, in the same training and testing to carry firearms as is required of
11235 active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer
11236 meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or
11237 resigned officer certification, valid one year from the date of issuance, indicating that the retired or
11238 resigned officer has met the standards of the agency to carry a firearm.

11239 C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the
11240 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
11241 review pursuant to this section may annually participate and meet the training and qualification standards
11242 to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired
11243 or resigned law-enforcement officer meets the training and qualification standards, the chief law-
11244 enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of
11245 issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to
11246 carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the
11247 standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board,
11248 or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal
11249 Information Network.

11250 D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-
11251 308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while
11252 carrying the proof of consultation and favorable review required, shall be deemed to have been issued a
11253 concealed handgun permit.

§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses prohibited.

Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor offenses under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, subsection B of former § 18.2-248.1:1, or § 18.2-250 or 18.2-250.1 shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of five years from the date of the second conviction and provided the person has not been convicted of any such offense within that period, the ineligibility shall be removed.

§ 18.2-308.4. Possession of firearms while in possession of certain substances.

A. ~~It shall be~~ is unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony.

B. ~~It shall be~~ is unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

C. ~~It shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart

from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking by a person younger than 21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking to persons younger than 21 years of age.

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person ~~less~~ younger than 21 years of age, knowing or having reason to believe that such person is ~~less~~ younger than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking.

Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of such products by persons ~~under~~ younger than 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally accessible to persons ~~under~~ younger than 21 years of age. An establishment that prohibits the presence of persons ~~under~~ younger than 21 years of age unless accompanied by a person 21 years of age or older is not open to the general public.

B. No person ~~less~~ younger than 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a person ~~less~~ younger than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such medical research has been approved by an institutional review board pursuant to

11307 applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16
11308 et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a
11309 law-enforcement officer or his agent when the same is necessary in the performance of his duties.

11310 C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or
11311 hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's
11312 license or similar photo identification issued by a government agency, that the individual is at least 21
11313 years of age. Such identification is not required from an individual whom the person has reason to believe
11314 is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person
11315 demanded, was shown, and reasonably relied upon a photo identification stating that the individual was
11316 at least 21 years of age shall be a defense to any action brought under this subsection. In determining
11317 whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may
11318 consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner
11319 of the individual.

11320 This subsection shall not apply to mail order or Internet sales, provided that the person offering
11321 the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
11322 smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine
11323 vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the
11324 purchaser is at least 21 years of age through a commercially available database that is regularly used by
11325 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method
11326 of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the
11327 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
11328 smoking will be released to the purchaser.

11329 D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any
11330 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
11331 smoking to any active duty military personnel who are 18 years of age or older. An identification card
11332 issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

11333 E. A violation of subsection A or C by an individual or by a separate retail establishment that
11334 involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or
11335 tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation,
11336 a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third
11337 or subsequent violation.

11338 A violation of subsection A or C by an individual or by a separate retail establishment that involves
11339 the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first
11340 violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount
11341 of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it
11342 has trained its employees concerning the requirements of this section, the court shall suspend all of the
11343 penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so
11344 train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties
11345 imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative
11346 nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

11347 A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation
11348 and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative
11349 to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of
11350 community service for a first violation of subsection B and up to 40 hours of community service for a
11351 second or subsequent violation. If the defendant fails or refuses to complete the community service as
11352 prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter
11353 an order pursuant to subdivision A 9 of § 16.1-278.8.

11354 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred
11355 may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-
11356 enforcement officer may issue a summons for a violation of subsection A, B, or C.

11357 F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages
11358 provided by the manufacturer, with the required health warning. The proprietor of every retail
11359 establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product,

11360 or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs
11361 indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp
11362 products intended for smoking to any person ~~under~~ younger than 21 years of age is prohibited by law.

11363 Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may
11364 enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall
11365 be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or
11366 town which instituted the action.

11367 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health
11368 Services Administration published at 61 Federal Register 1492, the Department of Agriculture and
11369 Consumer Services may promulgate regulations which allow the Department to undertake the activities
11370 necessary to comply with such regulations.

11371 3. Any attorney for the county, city, or town in which an alleged violation of this subsection
11372 occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The
11373 civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the
11374 county, city, or town which instituted the action.

11375 G. Nothing in this section shall be construed to create a private cause of action.

11376 H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105
11377 may issue a summons for any violation of this section.

11378 I. As used in this section:

11379 "Alternative nicotine product" means any noncombustible product containing nicotine that is
11380 intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

11381 "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product
11382 regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21
11383 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

11384 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros
11385 melanoxylen) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by,
11386 consumers as a bidi or beedie.

"Hemp product intended for smoking" means the same as that term is defined in § 3.2-4112.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1 misdemeanor.

B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in

11414 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
11415 misdemeanor.

11416 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
11417 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer,
11418 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any
11419 court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of §~~
11420 ~~18.2-248.1, or § 18.2-46.2, or § 18.2-46.3,~~ or relating to the violation of or conspiracy to violate any
11421 violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

11422 D. Any person who knowingly and willfully makes any materially false statement or representation
11423 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
11424 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

11425 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
11426 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this
11427 subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-
11428 enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer
11429 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
11430 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such
11431 communication knows or should know that he is not free to leave.

11432 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

11433 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner
11434 deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of
11435 the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
11436 Department of Juvenile Justice in any juvenile correctional center, any drug which is a controlled
11437 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) ~~of Title 54.1 or marijuana~~
11438 is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver
11439 or conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or
11440 explosives of any nature is guilty of a Class 3 felony.

Nothing herein contained shall be construed to repeal or amend § 18.2-473.

§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order authorizing interception of communications.

A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by the Department of State Police, when such interception may reasonably be expected to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the person or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic communication system, maintain an address or a post office box, or are making the communication within the territorial jurisdiction of the court.

2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an

11467 offense was committed, is being committed, or will be committed or the physical location of the oral
11468 communication to be intercepted is within the territorial jurisdiction of the court.

11469 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception
11470 of a wire or electronic communication, such communication shall be deemed to be intercepted in the
11471 jurisdiction where the order is entered, regardless of the physical location or the method by which the
11472 communication is captured or routed to the monitoring location.

11473 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

11474 A. The following officers shall have the powers of arrest as provided in this section:

- 11475 1. Members of the State Police force of the Commonwealth;
- 11476 2. Sheriffs of the various counties and cities, and their deputies;
- 11477 3. Members of any county police force or any duly constituted police force of any city or town of
11478 the Commonwealth;
- 11479 4. The Commissioner, members and employees of the Marine Resources Commission granted the
11480 power of arrest pursuant to § 28.2-900;
- 11481 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 11482 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and
11483 petty officers authorized under § 29.1-205 to make arrests;
- 11484 7. Conservation officers appointed pursuant to § 10.1-115;
- 11485 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles
11486 appointed pursuant to § 46.2-217;
- 11487 9. Special agents of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis
11488 Control Authority;
- 11489 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
11490 23.1; and
- 11491 11. Members of the Division of Capitol Police.

11492 B. Such officers may arrest without a warrant any person who commits any crime in the presence
11493 of the officer and any person whom he has reasonable grounds or probable cause to suspect of having
11494 committed a felony not in his presence.

11495 Such officers may arrest without a warrant any person whom the officer has probable cause to
11496 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of §
11497 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in
11498 violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person
11499 arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting
11500 officer.

11501 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as
11502 defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved
11503 in such accident has been transported, or in the apprehension of any person charged with the theft of any
11504 motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to
11505 believe, based upon personal investigation, including information obtained from eyewitnesses, that a
11506 crime has been committed by any person then and there present, apprehend such person without a warrant
11507 of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location
11508 where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement
11509 officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

11510 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any
11511 location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle,
11512 watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or
11513 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the
11514 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,
11515 within three hours of the alleged offense, arrest without a warrant at any location any person whom the
11516 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued
11517 pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

11518 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in
11519 another jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout,
11520 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,
11521 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a
11522 reasonably accurate description of such person wanted and the crime alleged.

11523 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not
11524 committed in his presence when the officer receives a radio message from his department or other law-
11525 enforcement agency within the Commonwealth that a warrant or capias for such offense is on file.

11526 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in
11527 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,
11528 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)
11529 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137,
11530 when such property is located on premises used for business or commercial purposes, or a similar local
11531 ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who
11532 observed the alleged offense. The arresting officer may issue a summons to any person arrested under this
11533 section for a misdemeanor violation involving shoplifting.

11534 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

11535 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in §
11536 19.2-81, persons for crimes involving:

- 11537 (a) The escape of an inmate from a correctional institution, as defined in § 53.1-1;
11538 (b) Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
11539 (c) The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474 or ~~§ 18.2-474.1~~;
11540 and
11541 (d) Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare,
11542 or security of the population of a correctional institution.

11543 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

11544 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement
11545 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is
11546 known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher
11547 or other employee in any public school division in this Commonwealth for a felony or a Class 1
11548 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division
11549 superintendent of the employing division as soon as practicable. The contents of the report required
11550 pursuant to this section shall be utilized by the local school division solely to implement the provisions of
11551 subsection B of § 22.1-296.2 and § 22.1-315.

11552 B. Every state official or agency and every sheriff, police officer, or other local law-enforcement
11553 officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as
11554 practicable, with the division superintendent of the school division in which the student is enrolled upon
11555 arresting a person who is known or discovered by the arresting official to be a student age 18 or older in
11556 any public school division in this Commonwealth for:

11557 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
11558 299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

11559 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

11560 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
11561 Title 18.2;

11562 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

11563 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
11564 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

11565 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ Chapter 11 (§ ~~18.2-247 4.1-~~
11566 1100 et seq.) ~~of Chapter 7 of Title 18.2 4.1;~~

11567 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

11568 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

11569 9. Robbery pursuant to § 18.2-58;

11570 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1; or

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, ~~or a violation of~~ subdivision 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§ §§~~ 4.1-600 and 18.2-247.

B. In any trial for a violation of ~~§ 18.2-250.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of ~~§ 18.2-250.1~~ 4.1-1104 or 4.1-1105, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.

11597 After conviction, whether with or without jury, the court may suspend imposition of sentence or
11598 suspend the sentence in whole or part and in addition may place the defendant on probation under such
11599 conditions as the court shall determine, including monitoring by a GPS (Global Positioning System)
11600 tracking device, or other similar device, or may, as a condition of a suspended sentence, require the
11601 defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused
11602 by the offense for which convicted, or to perform community service, or both, under terms and conditions
11603 which shall be entered in writing by the court. The defendant may be ordered by the court to pay the cost
11604 of the GPS tracking device or other similar device. If, however, the court suspends or modifies any
11605 sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the
11606 suspension or modification in the same manner as the statement required pursuant to subsection B of §
11607 19.2-298.01. The judge, after convicting the defendant of any offense for which a report to the Central
11608 Criminal Records Exchange is required in accordance with subsection A of § 19.2-390, shall determine
11609 whether a copy of the defendant's fingerprints or fingerprint identification information has been provided
11610 by a law-enforcement officer to the clerk of court for each such offense. In any case where fingerprints or
11611 fingerprint identification information has not been provided by a law-enforcement officer to the clerk of
11612 court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as
11613 a condition of probation or of the suspension of the imposition or execution of any sentence for such
11614 offense. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the
11615 provisions of subsection D of § 19.2-390.

11616 In those courts having electronic access to the Local Inmate Data System (LIDS) within the
11617 courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether
11618 a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank
11619 maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter
11620 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored
11621 in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom,
11622 the court shall order that the defendant appear within 30 days before the sheriff or probation officer and
11623 allow the sheriff or probation officer to take the required sample. The order shall also require that, if the

11624 defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the
11625 date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure
11626 to appear and provide the required sample.

11627 After conviction and upon sentencing of an active participant or member of a criminal street gang,
11628 the court may, as a condition for suspending the imposition of the sentence in whole or in part or for
11629 placing the accused on probation, place reasonable restrictions on those persons with whom the accused
11630 may have contact. Such restrictions may include prohibiting the accused from having contact with anyone
11631 whom he knows to be a member of a criminal street gang, except that contact with a family or household
11632 member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

11633 In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1,
11634 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of
11635 the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time
11636 at least equal to the statutory maximum period for which the defendant might originally have been
11637 sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension
11638 subject to revocation by the court. The conditions of probation may include such conditions as the court
11639 shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of
11640 subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court
11641 shall order that at least three years of the probation include active supervision of the defendant under a
11642 postrelease supervision program operated by the Department of Corrections, and for at least three years
11643 of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS
11644 (Global Positioning System) tracking device, or other similar device.

11645 If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any
11646 time before the sentence has been completely served, suspend the unserved portion of any such sentence,
11647 place the person on probation for such time as the court shall determine, or otherwise modify the sentence
11648 imposed.

11649 If a person has been sentenced for a felony to the Department of Corrections but has not actually
11650 been transferred to a receiving unit of the Department, the court which heard the case, if it appears

11651 compatible with the public interest and there are circumstances in mitigation of the offense, may, at any
11652 time before the person is transferred to the Department, suspend or otherwise modify the unserved portion
11653 of such a sentence. The court may place the person on probation for such time as the court shall determine.

11654 Notwithstanding any other provision of law or rule of court, any person who has been sentenced
11655 to jail or to the Department of Corrections for a marijuana offense, except for (i) a violation of subdivision
11656 (a) (3) of former § 18.2-248.1, (ii) a violation of subsection (d) of former § 18.2-248.1, or (iii) a violation
11657 of former § 18.2-248.1 where the defendant gave, distributed, or possessed with intent to give or distribute
11658 marijuana to a minor, may, at any time before the sentence has been completely served, file a motion with
11659 the court that heard the case for a resentencing hearing. If it appears compatible with the public interest
11660 and there are circumstances in mitigation of the offense, including the legalization of marijuana, such
11661 court may reduce, suspend, or otherwise modify such person's sentence at any time before such person's
11662 sentence has been completely served. If the petitioner claims to be indigent, the petitioner shall
11663 additionally file with the court a statement of indigency and a request for the appointment of counsel on
11664 forms provided by the Supreme Court of Virginia. If the petition is not summarily dismissed and the court
11665 finds that the petitioner is entitled to representation by counsel subject to the provisions of Article 3 (§
11666 19.2-157 et seq.) of Chapter 10 of Title 19.2, the court shall appoint counsel to represent the petitioner.

11667 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

11668 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
11669 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of
11670 the final judgment order, provided substantial assistance in investigating or prosecuting another person
11671 for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-
11672 95, or any violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-
11673 251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any
11674 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in
11675 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations
11676 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i).
11677 In determining whether the defendant has provided substantial assistance pursuant to the provisions of

this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not known to the defendant until more than one year after entry of the final judgment order, (2) information provided by the defendant within one year of entry of the final judgment order but that did not become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after entry of the final judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or possession with intent to distribute marijuana~~ in violation of ~~subdivisions (a)(2), (a)(3) and (c) of § 18.2-248.1~~ 4.1-1103, or (c) a drug-related offense in violation of § 4.1-1117 or 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation of ~~§ 18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest or profits derived from the investment of such money or other

11705 property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the
11706 minimum prescribed punishment for the violation is a term of not less than five years.

11707 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
11708 Chapter 22.1 (§ 19.2-386.1 et seq.).

11709 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

11710 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the
11711 lawful possession of which is not established or the title to which cannot be ascertained, which have come
11712 into the custody of a peace officer or have been seized in connection with violations of Chapter 11 (§ 4.1-
11713 1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of
11714 as follows:

11715 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
11716 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of
11717 any such substance or paraphernalia to the Department of Forensic Science, the Department of State
11718 Police, or to such police department or sheriff's office for research and training purposes and for
11719 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
11720 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

11721 2. In the event no application is made under subdivision 1, the court shall order the destruction of
11722 all such substances or paraphernalia, which order shall state the existence and nature of the substance or
11723 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
11724 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
11725 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be
11726 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for
11727 the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath,
11728 reporting the time, place and manner of destruction shall be made to the court by the officer to whom the
11729 order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal
11730 prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima
11731 facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or

otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the order is directed.

B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

C. The amount of any specific controlled substance, or imitation controlled substance, retained by any law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting agency's exceeding the limits allowed by this subsection.

D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of such substance on a monthly basis, which shall include a description and weight of the substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research and training purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the substances that were used for research and training pursuant to a court order in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.

11758 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in
11759 connection with any prosecution or investigation under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
11760 Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds
11761 of the substance randomly selected from the seized substance for representative purposes as evidence and
11762 destroy the remainder of the seized substance.

11763 Before any destruction is carried out under this section, the law-enforcement agency shall cause
11764 the material seized to be photographed with identification case numbers or other means of identification
11765 and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested
11766 party, if known, or his attorney, at least five days in advance that the photography will take place and that
11767 they may be present. Prior to any destruction under this section, the law-enforcement agency shall also
11768 notify the accused or other interested party, if known, and his attorney at least seven days prior to the
11769 destruction of the time and place the destruction will occur. Any notice required under the provisions of
11770 this section shall be by first-class mail to the last known address of the person required to be notified. In
11771 addition to the substance retained for representative purposes as evidence, all photographs and records
11772 made under this section and properly identified shall be admissible in any court proceeding for any
11773 purposes for which the seized substance itself would have been admissible.

11774 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
11775 **substances, etc.**

11776 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency
11777 to take into its custody or to maintain custody of substantial quantities of any controlled substances,
11778 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal
11779 prosecution under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title
11780 18.2. The court in its order may make provision for ensuring integrity of these items until further order of
11781 the court.

11782 **§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record**
11783 **information.**

11784 A. Criminal history record information shall be disseminated, whether directly or through an
11785 intermediary, only to:

11786 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
11787 purposes of the administration of criminal justice and the screening of an employment application or
11788 review of employment by a criminal justice agency with respect to its own employees or applicants, and
11789 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
11790 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,
11791 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes
11792 of this subdivision, criminal history record information includes information sent to the Central Criminal
11793 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
11794 time employee of the State Police, a police department or sheriff's office that is a part of or administered
11795 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
11796 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
11797 the purposes of the administration of criminal justice;

11798 2. Such other individuals and agencies that require criminal history record information to
11799 implement a state or federal statute or executive order of the President of the United States or Governor
11800 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon
11801 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
11802 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
11803 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

11804 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
11805 provide services required for the administration of criminal justice pursuant to that agreement which shall
11806 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
11807 security and confidentiality of the data;

11808 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
11809 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,

11810 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
11811 security of the data;

11812 5. Agencies of state or federal government that are authorized by state or federal statute or
11813 executive order of the President of the United States or Governor to conduct investigations determining
11814 employment suitability or eligibility for security clearances allowing access to classified information;

11815 6. Individuals and agencies where authorized by court order or court rule;

11816 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
11817 owned, operated or controlled by any political subdivision, and any public service corporation that
11818 operates a public transit system owned by a local government for the conduct of investigations of
11819 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
11820 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
11821 conviction record would be compatible with the nature of the employment, permit, or license under
11822 consideration;

11823 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
11824 of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered
11825 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
11826 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
11827 with a conviction record would be compatible with the nature of the employment under consideration;

11828 8. Public or private agencies when authorized or required by federal or state law or interstate
11829 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
11830 members of that individual's household, with whom the agency is considering placing a child or from
11831 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
11832 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
11833 not be further disseminated to any party other than a federal or state authority or court as may be required
11834 to comply with an express requirement of law;

11835 9. To the extent permitted by federal law or regulation, public service companies as defined in §
11836 56-1, for the conduct of investigations of applicants for employment when such employment involves

11837 personal contact with the public or when past criminal conduct of an applicant would be incompatible
11838 with the nature of the employment under consideration;

11839 10. The appropriate authority for purposes of granting citizenship and for purposes of international
11840 travel, including, but not limited to, issuing visas and passports;

11841 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
11842 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
11843 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
11844 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
11845 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
11846 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
11847 program as defined in § 15.2-1713.1;

11848 12. Administrators and board presidents of and applicants for licensure or registration as a child
11849 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
11850 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
11851 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
11852 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
11853 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
11854 that the data shall not be further disseminated by the facility or agency to any party other than the data
11855 subject, the Commissioner of Social Services' representative or a federal or state authority or court as may
11856 be required to comply with an express requirement of law for such further dissemination;

11857 13. The school boards of the Commonwealth for the purpose of screening individuals who are
11858 offered or who accept public school employment and those current school board employees for whom a
11859 report of arrest has been made pursuant to § 19.2-83.1;

11860 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
11861 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and
11862 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
11863 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

11864 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
11865 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
11866 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
11867 162.9:1, subject to the limitations set out in subsection E;

11868 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
11869 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
11870 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

11871 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set
11872 forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set
11873 forth in § 4.1-622;

11874 18. The State Board of Elections and authorized officers and employees thereof and general
11875 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
11876 respect to voter registration, limited to any record of felony convictions;

11877 19. The Commissioner of Behavioral Health and Developmental Services for those individuals
11878 who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
11879 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

11880 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
11881 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
11882 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

11883 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
11884 the Department of Education, or the Department of Behavioral Health and Developmental Services for
11885 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
11886 services;

11887 22. The Department of Behavioral Health and Developmental Services and facilities operated by
11888 the Department for the purpose of determining an individual's fitness for employment pursuant to
11889 departmental instructions;

11890 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
11891 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
11892 records information on behalf of such governing boards or administrators pursuant to a written agreement
11893 with the Department of State Police;

11894 24. Public institutions of higher education and nonprofit private institutions of higher education
11895 for the purpose of screening individuals who are offered or accept employment;

11896 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
11897 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
11898 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
11899 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
11900 history record information obtained pursuant to this section or otherwise use any record of an individual
11901 beyond the purpose that such disclosure was made to the threat assessment team;

11902 26. Executive directors of community services boards or the personnel director serving the
11903 community services board for the purpose of determining an individual's fitness for employment, approval
11904 as a sponsored residential service provider, or permission to enter into a shared living arrangement with a
11905 person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

11906 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
11907 determining an individual's fitness for employment, approval as a sponsored residential service provider,
11908 or permission to enter into a shared living arrangement with a person receiving medical assistance services
11909 pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

11910 28. The Commissioner of Social Services for the purpose of locating persons who owe child
11911 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
11912 the name, address, demographics and social security number of the data subject shall be released;

11913 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
11914 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
11915 purpose of determining if any applicant who accepts employment in any direct care position or requests
11916 approval as a sponsored residential service provider or permission to enter into a shared living arrangement

11917 with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime
11918 that affects his fitness to have responsibility for the safety and well-being of individuals with mental
11919 illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

11920 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
11921 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
11922 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

11923 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
11924 for the purpose of determining if any person being considered for election to any judgeship has been
11925 convicted of a crime;

11926 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
11927 determining an individual's fitness for employment in positions designated as sensitive under Department
11928 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

11929 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
11930 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
11931 Violent Predators Act (§ 37.2-900 et seq.);

11932 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
11933 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
11934 companies, for the conduct of investigations of applications for employment or for access to facilities, by
11935 contractors, leased laborers, and other visitors;

11936 35. Any employer of individuals whose employment requires that they enter the homes of others,
11937 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

11938 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
11939 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
11940 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
11941 subject to the restriction that the data shall not be further disseminated by the agency to any party other
11942 than a federal or state authority or court as may be required to comply with an express requirement of law
11943 for such further dissemination, subject to limitations set out in subsection G;

11944 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
11945 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
11946 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid
11947 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
11948 administered by the Department of Medical Assistance Services;

11949 38. The State Corporation Commission for the purpose of investigating individuals who are current
11950 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
11951 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other
11952 provision of law, if an application is denied based in whole or in part on information obtained from the
11953 Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of
11954 Financial Institutions or his designee may disclose such information to the applicant or its designee;

11955 39. The Department of Professional and Occupational Regulation for the purpose of investigating
11956 individuals for initial licensure pursuant to § 54.1-2106.1;

11957 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
11958 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
11959 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
11960 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

11961 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

11962 42. The State Treasurer for the purpose of determining whether a person receiving compensation
11963 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

11964 43. The Department of Social Services and directors of local departments of social services for the
11965 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
11966 or a local department of social services for the provision of child care services for which child care subsidy
11967 payments may be provided;

11968 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
11969 of a juvenile's household when completing a predispositional or postdispositional report required by §
11970 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

11971 45. The State Corporation Commission, for the purpose of screening applicants for insurance
11972 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

11973 46. Other entities as otherwise provided by law.

11974 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
11975 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
11976 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
11977 designated in the order on whom a report has been made under the provisions of this chapter.

11978 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
11979 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
11980 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
11981 copy of conviction data covering the person named in the request to the person making the request;
11982 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
11983 making of such request. A person receiving a copy of his own conviction data may utilize or further
11984 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
11985 subject, the person making the request shall be furnished at his cost a certification to that effect.

11986 B. Use of criminal history record information disseminated to noncriminal justice agencies under
11987 this section shall be limited to the purposes for which it was given and may not be disseminated further.

11988 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
11989 history record information for employment or licensing inquiries except as provided by law.

11990 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
11991 Exchange prior to dissemination of any criminal history record information on offenses required to be
11992 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
11993 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
11994 time is of the essence and the normal response time of the Exchange would exceed the necessary time
11995 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
11996 history record information that is required to be reported to the Central Criminal Records Exchange may
11997 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of

11998 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
11999 justice agency maintaining the record as required by § 15.2-1722.

12000 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
12001 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
12002 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

12003 F. Criminal history information provided to licensed assisted living facilities and licensed adult
12004 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
12005 for any offense specified in § 63.2-1720.

12006 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
12007 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
12008 of barrier crime in § 19.2-392.02.

12009 H. Upon receipt of a written request from an employer or prospective employer, the Central
12010 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
12011 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
12012 in the request to the employer or prospective employer making the request, provided that the person on
12013 whom the data is being obtained has consented in writing to the making of such request and has presented
12014 a photo-identification to the employer or prospective employer. In the event no conviction data is
12015 maintained on the person named in the request, the requesting employer or prospective employer shall be
12016 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
12017 forms provided by the Exchange.

12018 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
12019 information pursuant to the rules of court for obtaining discovery or for review by the court.

12020 **§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.**

12021 A. Criminal history record information shall be disseminated, whether directly or through an
12022 intermediary, only to:

12023 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
12024 purposes of the administration of criminal justice and the screening of an employment application or

12025 review of employment by a criminal justice agency with respect to its own employees or applicants, and
12026 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
12027 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and
12028 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of
12029 this subdivision, criminal history record information includes information sent to the Central Criminal
12030 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
12031 time employee of the State Police, a police department or sheriff's office that is a part of or administered
12032 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
12033 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
12034 the purposes of the administration of criminal justice;

12035 2. Such other individuals and agencies that require criminal history record information to
12036 implement a state or federal statute or executive order of the President of the United States or Governor
12037 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon
12038 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
12039 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
12040 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

12041 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
12042 provide services required for the administration of criminal justice pursuant to that agreement which shall
12043 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
12044 security and confidentiality of the data;

12045 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
12046 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
12047 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
12048 security of the data;

12049 5. Agencies of state or federal government that are authorized by state or federal statute or
12050 executive order of the President of the United States or Governor to conduct investigations determining
12051 employment suitability or eligibility for security clearances allowing access to classified information;

12052 6. Individuals and agencies where authorized by court order or court rule;

12053 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
12054 owned, operated or controlled by any political subdivision, and any public service corporation that
12055 operates a public transit system owned by a local government for the conduct of investigations of
12056 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
12057 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
12058 conviction record would be compatible with the nature of the employment, permit, or license under
12059 consideration;

12060 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
12061 of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered
12062 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
12063 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
12064 with a conviction record would be compatible with the nature of the employment under consideration;

12065 8. Public or private agencies when authorized or required by federal or state law or interstate
12066 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
12067 members of that individual's household, with whom the agency is considering placing a child or from
12068 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
12069 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
12070 not be further disseminated to any party other than a federal or state authority or court as may be required
12071 to comply with an express requirement of law;

12072 9. To the extent permitted by federal law or regulation, public service companies as defined in §
12073 56-1, for the conduct of investigations of applicants for employment when such employment involves
12074 personal contact with the public or when past criminal conduct of an applicant would be incompatible
12075 with the nature of the employment under consideration;

12076 10. The appropriate authority for purposes of granting citizenship and for purposes of international
12077 travel, including, but not limited to, issuing visas and passports;

12078 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
12079 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
12080 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
12081 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
12082 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
12083 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
12084 program as defined in § 15.2-1713.1;

12085 12. Administrators and board presidents of and applicants for licensure or registration as a child
12086 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
12087 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
12088 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
12089 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall
12090 not be further disseminated by the facility or agency to any party other than the data subject, the
12091 Commissioner of Social Services' representative or a federal or state authority or court as may be required
12092 to comply with an express requirement of law for such further dissemination;

12093 13. The school boards of the Commonwealth for the purpose of screening individuals who are
12094 offered or who accept public school employment and those current school board employees for whom a
12095 report of arrest has been made pursuant to § 19.2-83.1;

12096 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
12097 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and
12098 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
12099 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

12100 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
12101 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
12102 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
12103 162.9:1, subject to the limitations set out in subsection E;

12104 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
12105 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
12106 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

12107 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set
12108 forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set
12109 forth in § 4.1-622;

12110 18. The State Board of Elections and authorized officers and employees thereof and general
12111 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
12112 respect to voter registration, limited to any record of felony convictions;

12113 19. The Commissioner of Behavioral Health and Developmental Services for those individuals
12114 who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
12115 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

12116 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
12117 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
12118 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

12119 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
12120 the Department of Education, or the Department of Behavioral Health and Developmental Services for
12121 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
12122 services;

12123 22. The Department of Behavioral Health and Developmental Services and facilities operated by
12124 the Department for the purpose of determining an individual's fitness for employment pursuant to
12125 departmental instructions;

12126 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
12127 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
12128 records information on behalf of such governing boards or administrators pursuant to a written agreement
12129 with the Department of State Police;

12130 24. Public institutions of higher education and nonprofit private institutions of higher education
12131 for the purpose of screening individuals who are offered or accept employment;

12132 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
12133 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
12134 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
12135 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
12136 history record information obtained pursuant to this section or otherwise use any record of an individual
12137 beyond the purpose that such disclosure was made to the threat assessment team;

12138 26. Executive directors of community services boards or the personnel director serving the
12139 community services board for the purpose of determining an individual's fitness for employment, approval
12140 as a sponsored residential service provider, or permission to enter into a shared living arrangement with a
12141 person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

12142 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
12143 determining an individual's fitness for employment, approval as a sponsored residential service provider,
12144 or permission to enter into a shared living arrangement with a person receiving medical assistance services
12145 pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

12146 28. The Commissioner of Social Services for the purpose of locating persons who owe child
12147 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
12148 the name, address, demographics and social security number of the data subject shall be released;

12149 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
12150 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
12151 purpose of determining if any applicant who accepts employment in any direct care position or requests
12152 approval as a sponsored residential service provider or permission to enter into a shared living arrangement
12153 with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime
12154 that affects his fitness to have responsibility for the safety and well-being of individuals with mental
12155 illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

12156 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
12157 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
12158 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

12159 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
12160 for the purpose of determining if any person being considered for election to any judgeship has been
12161 convicted of a crime;

12162 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
12163 determining an individual's fitness for employment in positions designated as sensitive under Department
12164 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

12165 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
12166 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
12167 Violent Predators Act (§ 37.2-900 et seq.);

12168 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
12169 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
12170 companies, for the conduct of investigations of applications for employment or for access to facilities, by
12171 contractors, leased laborers, and other visitors;

12172 35. Any employer of individuals whose employment requires that they enter the homes of others,
12173 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

12174 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
12175 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
12176 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
12177 subject to the restriction that the data shall not be further disseminated by the agency to any party other
12178 than a federal or state authority or court as may be required to comply with an express requirement of law
12179 for such further dissemination, subject to limitations set out in subsection G;

12180 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
12181 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
12182 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid

12183 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
12184 administered by the Department of Medical Assistance Services;

12185 38. The State Corporation Commission for the purpose of investigating individuals who are current
12186 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
12187 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title
12188 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on
12189 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of
12190 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the
12191 applicant or its designee;

12192 39. The Department of Professional and Occupational Regulation for the purpose of investigating
12193 individuals for initial licensure pursuant to § 54.1-2106.1;

12194 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
12195 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
12196 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
12197 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

12198 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

12199 42. The State Treasurer for the purpose of determining whether a person receiving compensation
12200 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

12201 43. The Department of Education or its agents or designees for the purpose of screening individuals
12202 seeking to enter into a contract with the Department of Education or its agents or designees for the
12203 provision of child care services for which child care subsidy payments may be provided;

12204 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
12205 of a juvenile's household when completing a predispositional or postdispositional report required by §
12206 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

12207 45. The State Corporation Commission, for the purpose of screening applicants for insurance
12208 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

12209 46. Administrators and board presidents of and applicants for licensure or registration as a child
12210 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
12211 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
12212 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
12213 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
12214 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
12215 representative, or a federal or state authority or court as may be required to comply with an express
12216 requirement of law for such further dissemination; and

12217 47. Other entities as otherwise provided by law.

12218 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
12219 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
12220 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
12221 designated in the order on whom a report has been made under the provisions of this chapter.

12222 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
12223 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
12224 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
12225 copy of conviction data covering the person named in the request to the person making the request;
12226 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
12227 making of such request. A person receiving a copy of his own conviction data may utilize or further
12228 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
12229 subject, the person making the request shall be furnished at his cost a certification to that effect.

12230 B. Use of criminal history record information disseminated to noncriminal justice agencies under
12231 this section shall be limited to the purposes for which it was given and may not be disseminated further.

12232 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
12233 history record information for employment or licensing inquiries except as provided by law.

12234 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
12235 Exchange prior to dissemination of any criminal history record information on offenses required to be

12236 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
12237 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
12238 time is of the essence and the normal response time of the Exchange would exceed the necessary time
12239 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
12240 history record information that is required to be reported to the Central Criminal Records Exchange may
12241 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of
12242 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
12243 justice agency maintaining the record as required by § 15.2-1722.

12244 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
12245 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
12246 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

12247 F. Criminal history information provided to licensed assisted living facilities and licensed adult
12248 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
12249 for any offense specified in § 63.2-1720.

12250 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
12251 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
12252 of barrier crime in § 19.2-392.02.

12253 H. Upon receipt of a written request from an employer or prospective employer, the Central
12254 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
12255 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
12256 in the request to the employer or prospective employer making the request, provided that the person on
12257 whom the data is being obtained has consented in writing to the making of such request and has presented
12258 a photo-identification to the employer or prospective employer. In the event no conviction data is
12259 maintained on the person named in the request, the requesting employer or prospective employer shall be
12260 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
12261 forms provided by the Exchange.

12262 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
12263 information pursuant to the rules of court for obtaining discovery or for review by the court.

12264 § 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by
12265 businesses and organizations regarding employees or volunteers providing care to children or the
12266 elderly or disabled.

12267 A. For purposes of this section:

12268 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
12269 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony
12270 violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6,
12271 or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-
12272 50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-
12273 52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2,
12274 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony
12275 violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1,
12276 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-
12277 67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-
12278 87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-
12279 286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony
12280 violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-
12281 357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-
12282 370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1,
12283 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-
12284 406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2,
12285 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480,
12286 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws
12287 of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or
12288 any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-

12289 1101, 4.1-1114, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2,
12290 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially
12291 similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any
12292 substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902
12293 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors
12294 Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in
12295 accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that
12296 results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry
12297 pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any
12298 offense for which registration in a sex offender and crimes against minors registry is required under the
12299 laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause
12300 (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

12301 "Barrier crime information" means the following facts concerning a person who has been arrested
12302 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at
12303 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
12304 description of the barrier crime or offenses for which the person has been arrested or has been convicted,
12305 the disposition of the charge, and any other information that may be useful in identifying persons arrested
12306 for or convicted of a barrier crime.

12307 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
12308 recreation to children or the elderly or disabled.

12309 "Department" means the Department of State Police.

12310 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,
12311 or seeks to volunteer for a qualified entity.

12312 "Identification document" means a document made or issued by or under the authority of the
12313 United States government, a state, a political subdivision of a state, a foreign government, political
12314 subdivision of a foreign government, an international governmental or an international quasi-

12315 governmental organization that, when completed with information concerning a particular individual, is
12316 of a type intended or commonly accepted for the purpose of identification of individuals.

12317 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
12318 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
12319 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised
12320 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
12321 operate a qualified entity.

12322 "Qualified entity" means a business or organization that provides care to children or the elderly or
12323 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
12324 pursuant to subdivision A 7 of § 63.2-1715.

12325 B. A qualified entity may request the Department of State Police to conduct a national criminal
12326 background check on any provider who is employed by such entity. No qualified entity may request a
12327 national criminal background check on a provider until such provider has:

12328 1. Been fingerprinted; and

12329 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,
12330 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
12331 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
12332 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
12333 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background
12334 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to
12335 challenge the accuracy and completeness of any information contained in any such report, and to obtain a
12336 prompt determination as to the validity of such challenge before a final determination is made by the
12337 Department; and (v) a notice to the provider that prior to the completion of the background check the
12338 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled
12339 for whom the qualified entity provides care.

12340 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
12341 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection

12342 B, the Department shall make a determination whether the provider has been convicted of or is the subject
12343 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime
12344 information, the Department shall access the national criminal history background check system, which
12345 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of
12346 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If
12347 the Department receives a background report lacking disposition data, the Department shall conduct
12348 research in whatever state and local recordkeeping systems are available in order to obtain complete data.
12349 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business
12350 days.

12351 D. Any background check conducted pursuant to this section for a provider employed by a private
12352 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
12353 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified
12354 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

12355 E. Any background check conducted pursuant to this section for a provider employed by a
12356 governmental entity shall be provided to that entity.

12357 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
12358 national criminal background check, the Department and the Federal Bureau of Investigation may each
12359 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
12360 with the fingerprints.

12361 G. The failure to request a criminal background check pursuant to subsection B shall not be
12362 considered negligence per se in any civil action.

12363 H. [Expired.]

12364 **§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses**
12365 **and organizations regarding employees or volunteers providing care to children or the elderly or**
12366 **disabled.**

12367 A. For purposes of this section:

12368 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
12369 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony
12370 violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6,
12371 or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-
12372 50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-
12373 52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2,
12374 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony
12375 violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1,
12376 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-
12377 67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-
12378 87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-
12379 286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony
12380 violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-
12381 357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-
12382 370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1,
12383 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-
12384 406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2,
12385 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480,
12386 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws
12387 of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or
12388 any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-
12389 1101, 4.1-1114, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2,
12390 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially
12391 similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any
12392 substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902
12393 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors
12394 Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in

12395 accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that
12396 results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry
12397 pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any
12398 offense for which registration in a sex offender and crimes against minors registry is required under the
12399 laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause
12400 (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

12401 "Barrier crime information" means the following facts concerning a person who has been arrested
12402 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at
12403 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
12404 description of the barrier crime or offenses for which the person has been arrested or has been convicted,
12405 the disposition of the charge, and any other information that may be useful in identifying persons arrested
12406 for or convicted of a barrier crime.

12407 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
12408 recreation to children or the elderly or disabled.

12409 "Department" means the Department of State Police.

12410 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,
12411 or seeks to volunteer for a qualified entity.

12412 "Identification document" means a document made or issued by or under the authority of the
12413 United States government, a state, a political subdivision of a state, a foreign government, political
12414 subdivision of a foreign government, an international governmental or an international quasi-
12415 governmental organization that, when completed with information concerning a particular individual, is
12416 of a type intended or commonly accepted for the purpose of identification of individuals.

12417 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
12418 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
12419 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised
12420 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
12421 operate a qualified entity.

12422 "Qualified entity" means a business or organization that provides care to children or the elderly or
12423 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
12424 pursuant to subdivision A 7 of § 22.1-289.030.

12425 B. A qualified entity may request the Department of State Police to conduct a national criminal
12426 background check on any provider who is employed by such entity. No qualified entity may request a
12427 national criminal background check on a provider until such provider has:

12428 1. Been fingerprinted; and

12429 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,
12430 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
12431 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
12432 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
12433 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background
12434 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to
12435 challenge the accuracy and completeness of any information contained in any such report, and to obtain a
12436 prompt determination as to the validity of such challenge before a final determination is made by the
12437 Department; and (v) a notice to the provider that prior to the completion of the background check the
12438 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled
12439 for whom the qualified entity provides care.

12440 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
12441 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection
12442 B, the Department shall make a determination whether the provider has been convicted of or is the subject
12443 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime
12444 information, the Department shall access the national criminal history background check system, which
12445 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of
12446 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If
12447 the Department receives a background report lacking disposition data, the Department shall conduct
12448 research in whatever state and local recordkeeping systems are available in order to obtain complete data.

12449 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business
12450 days.

12451 D. Any background check conducted pursuant to this section for a provider employed by a private
12452 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
12453 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified
12454 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

12455 E. Any background check conducted pursuant to this section for a provider employed by a
12456 governmental entity shall be provided to that entity.

12457 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
12458 national criminal background check, the Department and the Federal Bureau of Investigation may each
12459 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
12460 with the fingerprints.

12461 G. The failure to request a criminal background check pursuant to subsection B shall not be
12462 considered negligence per se in any civil action.

12463 H. [Expired.]

12464 **§ 19.2-392.1. Statement of policy.**

12465 The General Assembly finds that arrest records can be a hindrance to ~~an innocent~~ a citizen's ability
12466 to obtain employment, and an education ~~and to obtain credit~~. It further finds that the police and court
12467 records of those of its citizens who have been absolutely pardoned for crimes for which they have been
12468 unjustly convicted or who have demonstrated their rehabilitation can also be a hindrance. This chapter is
12469 intended to protect such persons from the unwarranted damage ~~which~~ that may occur as a result of being
12470 arrested and convicted.

12471 **§ 19.2-392.2. Expungement of police and court records.**

12472 A. If a person is charged with the commission of a crime, a civil offense, or any offense defined
12473 in Title 18.2, and

12474 ~~1. Is (i) the person is~~ acquitted, ~~or~~

12475 ~~2. A;~~ (ii) a nolle prosequi is taken ~~or~~; (iii) the charge is otherwise dismissed, including dismissal
12476 by accord and satisfaction pursuant to § 19.2-151; (iv) (a) the person is convicted or adjudicated delinquent
12477 of a violation of former § 18.2-250.1 or such charged is deferred and dismissed, (b) all court costs and
12478 finances and all orders of restitution have been satisfied, and (c) five years have passed since the date of
12479 completion of all terms of sentencing and probation; or (v) (a) the person is convicted or adjudicated
12480 delinquent of a violation of former § 18.2-248.1 or a violation of subsection A of § 18.2-265.3 as it relates
12481 to marijuana, or is charged under either section and the charge is deferred and dismissed, (b) all court costs
12482 and fines and all orders of restitution have been satisfied, and (c) five years have passed since the date of
12483 completion of all terms of sentencing and probation, he may file a petition setting forth the relevant facts
12484 and requesting expungement of the police records and the court records relating to the arrest, charge,
12485 conviction, adjudication, or civil offense.

12486 B. If any person whose name or other identification has been used without his consent or
12487 authorization by another person who has been charged or arrested using such name or identification, he
12488 may file a petition with the court disposing of the charge for relief pursuant to this section. Such person
12489 shall not be required to pay any fees for the filing of a petition under this subsection. A petition filed under
12490 this subsection shall include one complete set of the petitioner's fingerprints obtained from a law-
12491 enforcement agency.

12492 C. The petition with a copy of the warrant, summons, or indictment if reasonably available shall
12493 be filed in the circuit court of the county or city in which the case was disposed of ~~by acquittal or being~~
12494 ~~otherwise dismissed~~ and shall contain, except where not reasonably available, the date of arrest and the
12495 name of the arresting agency. Where this information is not reasonably available, the petition shall state
12496 the reason for such unavailability. The petition shall further state the specific criminal charge, conviction,
12497 adjudication, or civil offense to be expunged, the date of final disposition of the charge, conviction,
12498 adjudication, or civil offense as set forth in the petition, the petitioner's date of birth, and the full name
12499 used by the petitioner at the time of arrest.

12500 D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or
12501 county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer

12502 to the petition or may give written notice to the court that he does not object to the petition within 21 days
12503 after it is served on him.

12504 E. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's
12505 fingerprints and shall provide that agency with a copy of the petition for expungement. The law-
12506 enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE)
12507 with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a
12508 copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry
12509 that the petitioner wishes to expunge, if applicable, and the set of fingerprints. Upon completion of the
12510 hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the
12511 entry of an order of expungement or an order denying the petition for expungement, the court shall cause
12512 the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the
12513 petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the
12514 clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

12515 F. After receiving the criminal history record information from the CCRE, the court shall conduct
12516 a hearing on the petition. If the court finds that the continued existence and possible dissemination of
12517 information relating to the arrest, charge, conviction, adjudication, or civil offense of the petitioner causes
12518 or may cause circumstances ~~which~~ that constitute a manifest injustice to the petitioner, it shall enter an
12519 order requiring the expungement of the police and court records, including electronic records, relating to
12520 the arrest, charge, conviction, adjudication, or civil offense. Otherwise, it shall deny the petition. However,
12521 if the petitioner has no prior criminal record and the arrest, charge, or conviction was for a misdemeanor
12522 violation or the charge was for a civil offense, the petitioner shall be entitled, in the absence of good cause
12523 shown to the contrary by the Commonwealth, to expungement of the police and court records relating to
12524 the arrest, charge, conviction, adjudication, or civil offense and the court shall enter an order of
12525 expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i)
12526 gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii)
12527 when the arrest, charge, conviction, or adjudication to be expunged is a felony, stipulates in such written
12528 notice that the continued existence and possible dissemination of information relating to the arrest of the

12529 petitioner causes or may cause circumstances—~~which~~ that constitute a manifest injustice to the petitioner,
12530 the court may enter an order of expungement without conducting a hearing.

12531 G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by
12532 the decision of the court may appeal, as provided by law in civil cases.

12533 H. Notwithstanding any other provision of this section, when the charge is dismissed because the
12534 court finds that the person arrested or charged is not the person named in the summons, warrant, indictment
12535 or presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or
12536 charged, enter an order requiring expungement of the police and court records relating to the charge. Such
12537 order shall contain a statement that the dismissal and expungement are ordered pursuant to this subsection
12538 and shall be accompanied by the complete set of the petitioner's fingerprints filed with his petition. Upon
12539 the entry of such order, it shall be treated as provided in subsection K.

12540 I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § 2.2-
12541 402 of an absolute pardon for the commission of a crime that a person did not commit, the court shall
12542 enter an order requiring expungement of the police and court records relating to the charge and conviction.
12543 Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon
12544 the entry of such order, it shall be treated as provided in subsection K.

12545 J. Upon receiving a copy of a writ vacating a conviction pursuant to § 19.2-327.5 or 19.2-327.13,
12546 the court shall enter an order requiring expungement of the police and court records relating to the charge
12547 and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this
12548 subsection. Upon the entry of the order, it shall be treated as provided in subsection K.

12549 K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such
12550 order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations
12551 adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of
12552 such records shall be effected.

12553 L. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the
12554 Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the
12555 petitioner such costs paid by the petitioner.

12556 M. Any order entered where (i) the court or parties failed to strictly comply with the procedures
12557 set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable
12558 upon motion and notice made within three years of the entry of such order.

12559 **§ 19.2-392.2:1. Former marijuana offenses; automatic expungement.**

12560 A. Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a
12561 misdemeanor violation of former § 18.2-248.1, or a violation of former § 18.2-250.1, including any
12562 violation charged under either section and the charge was deferred and dismissed, shall be expunged no
12563 later than (i) July 1, 2022, or (ii) if, on July 1, 2022, the person who is the subject of the arrest, criminal
12564 charge, conviction, or civil offense has not completed all terms of sentencing and probation, including
12565 satisfaction of all court costs and fines and all orders of restitution, three months after the date of
12566 completion of all terms of sentencing and probation.

12567 B. The Department of State Police shall determine which offenses in the Central Criminal Records
12568 Exchange meet the criteria for automatic expungement set forth in subsection A. The Department of State
12569 Police shall provide an electronic list, on at least a monthly basis, of all offenses that meet the criteria for
12570 automatic expungement sent to the Executive Secretary of the Supreme Court and to any circuit court
12571 clerk who maintains a case management system that interfaces with the Department of State Police under
12572 subsection B of § 17.1-502. The Executive Secretary, on at least a monthly basis, shall provide an
12573 electronic list of all offenses that meet the criteria for automatic expungement to the clerk of each circuit
12574 court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case
12575 management system maintained by the Executive Secretary.

12576 C. Upon receipt of the electronic list provided under subsection B, on at least a monthly basis the
12577 clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such
12578 order directing that the offenses that meet the criteria for automatic expungement be automatically
12579 expunged. Such order shall contain the names of the persons charged with or convicted of such offenses.

12580 D. The clerk of each circuit court shall provide, on a monthly basis, an electronic copy of any order
12581 entered under subsection C to the Department of State Police and to any agency or individual known to
12582 maintain or to have obtained the records to be expunged. Upon receipt of such order, the Department of

State Police and any such agency or individual shall expunge such records under the process set forth by the Department of State Police pursuant to rules and regulations adopted pursuant to § 9.1-134.

Any records maintained electronically which are transformed by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered expunged, provided that such records are accessible only to the manager of the records. Records relating to the arrest, criminal charge, or conviction of a person for a violation of § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a presentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political

subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

The Department of State Police shall not be required to notify any such agency or individual that it possesses records subject to an expungement order and no such agency or individual responsible for expunging records in their possession shall be required to notify the Department of State Police after complying with an expungement order.

E. The Department of Motor Vehicles (the Department) shall not expunge any conviction (i) in violation of federal regulatory record retention requirements, (ii) in violation of federal program requirements, or (iii) until three years after all statutory requirements associated with a driver's license suspension have been complied with if the Department is required to suspend a person's driving privileges as a result of a conviction ordered to be expunged. Upon receipt of an order of expungement, the Department shall expunge all records if the federal regulatory record retention period has run, or three years have passed since the date that all statutory requirements associated with a suspension have been satisfied. However, if the Department cannot expunge a conviction pursuant to this subsection at the time it is ordered, the Department shall maintain a list including (a) the record not eligible for expungement,

(b) the reason the record could not be expunged, (c) the authority prohibiting expungement at the time it is ordered, and (d) if known as the time that expungement is ordered, the date on which the record may be expunged.

F. All electronic lists created in accordance with this section are not subject to further dissemination unless explicitly provided for by this section. Any willful and intentional unlawful dissemination is punishable as an unlawful dissemination of criminal history record information in violation of § 9.1-136.

§ 19.2-392.4. Prohibited practices by employers, educational institutions, agencies, etc., of state and local governments.

A. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest ~~or~~₂ criminal charge against him, conviction, or civil offense that has been expunged. An applicant need not, in answer to any question concerning any arrest ~~or~~₂ criminal charge ~~that has not resulted in a~~₂ conviction, or civil offense, include a reference to or information concerning arrests ~~or~~₂ charges, convictions, or civil offenses that have been expunged.

B. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest ~~or~~₂ criminal charge against him, conviction, or civil offense that has been expunged. An applicant need not, in answer to any question concerning any arrest ~~or~~₂ criminal charge ~~that has not resulted in a~~₂ conviction, or civil offense, include a reference to or information concerning an arrest, charges, convictions, or civil offenses that have been expunged. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest ~~or~~₂ criminal charge against him, conviction, or civil offense that has been expunged.

C. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.

12663 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine**
12664 **products.**

12665 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as
12666 prescribed by the Board of Education.

12667 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage
12668 drinking, underage marijuana use, and drunk driving shall be provided in the public schools. The Virginia
12669 Alcoholic Beverage Control Authority and the Virginia Cannabis Control Authority shall provide
12670 educational materials to the Department of Education. The Department of Education shall review and shall
12671 distribute such materials as are approved to the public schools.

12672 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education
12673 shall distribute to each local school division educational materials concerning the health and safety risks
12674 of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are
12675 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,
12676 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall
12677 be provided in each public elementary and secondary school in the Commonwealth, consistent with such
12678 educational materials.

12679 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

12680 A. School boards shall expel from school attendance any student whom such school board has
12681 determined, in accordance with the procedures set forth in this article, to have brought a controlled
12682 substance, or imitation controlled substance, ~~or marijuana~~ as those terms are defined in § 18.2-247 or
12683 marijuana as defined in § 4.1-600 onto school property or to a school-sponsored activity. A school
12684 administrator, pursuant to school board policy, or a school board may, however, determine, based on the
12685 facts of a particular situation, that special circumstances exist and no disciplinary action or another
12686 disciplinary action or another term of expulsion is appropriate. A school board may, by regulation,
12687 authorize the division superintendent or his designee to conduct a preliminary review of such cases to
12688 determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure
12689 that, if a determination is made that another disciplinary action is appropriate, any such subsequent

12690 disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this
12691 section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

12692 B. Each school board shall revise its standards of student conduct to incorporate the requirements
12693 of this section no later than three months after the date on which this act becomes effective.

12694 **§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.**

12695 A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was
12696 killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus
12697 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer,
12698 firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the
12699 Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority, state
12700 correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy
12701 sheriff; (ii) member of the Virginia National Guard while serving on official state duty or federal duty
12702 under Title 32 of the United States Code; or (iii) member of the Virginia Defense Force while serving on
12703 official state duty, and any individual whose spouse was killed in the line of duty while employed or
12704 serving in any of such occupations, is entitled to a waiver of undergraduate tuition and mandatory fees at
12705 any public institution of higher education under the following conditions:

12706 1. The chief executive officer of the deceased individual's employer certifies that such individual
12707 was so employed and was killed in the line of duty while serving or living in the Commonwealth; and

12708 2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution
12709 and applies to such institution for the waiver. Waiver recipients who make satisfactory academic progress
12710 are eligible for renewal of such waiver.

12711 B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional
12712 charges and mandatory educational and auxiliary fees, and books and supplies but shall not waive user
12713 fees such as room and board charges.

12714 C. Each public institution of higher education shall include in its catalog or equivalent publication
12715 a statement describing the benefits available pursuant to this section.

12716 **§ 23.1-1301. Governing boards; powers.**

- 12717 A. The board of visitors of each baccalaureate public institution of higher education or its designee
12718 may:
- 12719 1. Make regulations and policies concerning the institution;
 - 12720 2. Manage the funds of the institution and approve an annual budget;
 - 12721 3. Appoint the chief executive officer of the institution;
 - 12722 4. Appoint professors and fix their salaries; and
 - 12723 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.
- 12724 B. The governing board of each public institution of higher education or its designee may:
- 12725 1. In addition to the powers set forth in Restructured Higher Education Financial and
12726 Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real
12727 property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor
12728 and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used,
12729 and administered in the same manner as all other gifts and bequests;
 - 12730 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
12731 purposes on any property owned by the institution;
 - 12732 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
12733 maintained, or controlled by the institution;
 - 12734 4. Adopt regulations or institution policies for the employment and dismissal of professors,
12735 teachers, instructors, and other employees;
 - 12736 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition
12737 to the regulations or institution policies required pursuant to § 23.1-1303;
 - 12738 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
12739 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
12740 by such regulations or policies;
 - 12741 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
12742 promote (i) student compliance with state laws on the use of alcoholic beverages and marijuana and (ii)
12743 the awareness and prevention of sexual crimes committed upon students;

12744 8. Establish guidelines for the initiation or induction of students into any social fraternity or
12745 sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

12746 9. Assign any interest it possesses in intellectual property or in materials in which the institution
12747 claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual
12748 property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for
12749 transfers of such property (i) developed wholly or predominantly through the use of state general funds,
12750 exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope
12751 of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and
12752 Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties
12753 on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit
12754 the respective institutions. The Governor may attach conditions to these transfers as he deems necessary.
12755 In the event the Governor does not approve such transfer, the materials shall remain the property of the
12756 respective institutions and may be used and developed in any manner permitted by law;

12757 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a
12758 "state public body" for purposes of subsection D of § 2.2-3708.2; and

12759 11. Adopt a resolution to require the governing body of a locality that is contiguous to the
12760 institution to enforce state statutes and local ordinances with respect to offenses occurring on the property
12761 of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce
12762 statutes and local ordinances with respect to offenses occurring on the property of the institution.

12763 **§ 24.2-233. Removal of elected and certain appointed officers by courts.**

12764 Upon petition, a circuit court may remove from office any elected officer or officer who has been
12765 appointed to fill an elective office, residing within the jurisdiction of the court:

12766 1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that
12767 neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse
12768 effect upon the conduct of the office;

12769 2. Upon conviction of a misdemeanor pursuant to Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
12770 Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all
12771 rights of appeal have terminated involving the:

12772 a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or
12773 distribute a controlled substance or marijuana;

12774 b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug
12775 paraphernalia; or

12776 c. Possession of any controlled substance or marijuana and such conviction under subdivision a,
12777 b, or c has a material adverse effect upon the conduct of such office;

12778 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a
12779 "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the
12780 conduct of such office; or

12781 4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of
12782 § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into
12783 dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of
12784 age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose
12785 himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of
12786 such office.

12787 The petition must be signed by a number of registered voters who reside within the jurisdiction of
12788 the officer equal to ~~ten~~ 10 percent of the total number of votes cast at the last election for the office that
12789 the officer holds.

12790 Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be
12791 subsequently subject to the provisions of this section for the same criminal offense.

12792 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

12793 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the
12794 following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth
12795 without the payment of toll while in the performance of their official duties:

- 12796 1. The Commissioner of Highways;
- 12797 2. Members of the Commonwealth Transportation Board;
- 12798 3. Employees of the Department of Transportation;
- 12799 4. The Superintendent of the Department of State Police;
- 12800 5. Officers and employees of the Department of State Police;
- 12801 6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority or the
- 12802 Board of Directors of the Virginia Cannabis Control Authority;
- 12803 7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control
- 12804 Authority or the Virginia Cannabis Control Authority and special agents of the Virginia Alcoholic
- 12805 Beverage Control Authority or the Virginia Cannabis Control Authority;
- 12806 8. The Commissioner of the Department of Motor Vehicles;
- 12807 9. Employees of the Department of Motor Vehicles;
- 12808 10. Local police officers;
- 12809 11. Sheriffs and their deputies;
- 12810 12. Regional jail officials;
- 12811 13. Animal wardens;
- 12812 14. The Director and officers of the Department of Wildlife Resources;
- 12813 15. Persons operating firefighting equipment and emergency medical services vehicles as defined
- 12814 in § 32.1-111.1;
- 12815 16. Operators of school buses being used to transport pupils to or from schools;
- 12816 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the
- 12817 driver, and used to regularly transport workers to and from their places of employment and (ii) public
- 12818 transit buses;
- 12819 18. Employees of the Department of Rail and Public Transportation;
- 12820 19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation
- 12821 Act of 1988; and
- 12822 20. Law-enforcement officers of the Virginia Marine Resources Commission.

12823 B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free
12824 use of such facilities, in cases of emergency and circumstances of concern for public safety on the
12825 highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or
12826 potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the
12827 toll facility by permitting the temporary suspension of toll collection operations on its facilities.

12828 1. The assessment of the threat to public safety shall be performed and the decision temporarily to
12829 suspend toll collection operations shall be made by the Commissioner of Highways or his designee.

12830 2. Major incidents that may require the temporary suspension of toll collection operations shall
12831 include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of
12832 hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions;
12833 and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state
12834 of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations
12835 in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of
12836 Highways shall reinstate toll collection when the mandatory evacuation period ends.

12837 3. In any judicial proceeding in which a person is found to be criminally responsible or civilly
12838 liable for any incident resulting in the suspension of toll collections as provided in this subsection, the
12839 court may assess against the person an amount equal to lost toll revenue as a part of the costs of the
12840 proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the
12841 Department of Transportation for deposit into the toll road fund.

12842 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll
12843 bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor
12844 punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in
12845 subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel,
12846 or toll road is guilty of a Class 1 misdemeanor.

12847 D. Any vehicle operated by the holder of a valid driver's license or other document issued under
12848 Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the

12849 operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and
12850 other toll facilities in the Commonwealth if:

12851 1. The vehicle is specially equipped to permit its operation by a handicapped person;

12852 2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth
12853 or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being
12854 severely physically disabled and having permanent upper limb mobility or dexterity impairments that
12855 substantially impair his ability to deposit coins in toll baskets;

12856 3. The driver has applied for and received from the Department of Transportation a vehicle window
12857 sticker identifying him as eligible for such free passage; and

12858 4. Such identifying window sticker is properly displayed on the vehicle.

12859 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in
12860 the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by
12861 those persons exempted from tolls pursuant to this subsection and shall accept any payments made by
12862 such persons.

12863 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the
12864 provisions of § 22.1-187.

12865 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use
12866 the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or
12867 facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation
12868 Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct
12869 of official business:

12870 1. The Commissioner of Highways;

12871 2. Members of the Commonwealth Transportation Board;

12872 3. Employees of the Department of Transportation;

12873 4. The Superintendent of the Department of State Police;

12874 5. Officers and employees of the Department of State Police;

12875 6. The Commissioner of the Department of Motor Vehicles;

7. Employees of the Department of Motor Vehicles; and

8. Sheriffs and deputy sheriffs.

However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the applicable comprehensive agreement between the operator and the Department. The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the same affected area, whichever occurs first.

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.

A. It ~~shall be~~ is unlawful for any person to obtain a Virginia driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department if such person has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or altered documents.

B. It ~~shall be~~ is unlawful to aid any person to obtain any driver's license, special identification card, vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

12902 C. It ~~shall be~~ is unlawful to knowingly possess or use for any purpose any driver's license, special
12903 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
12904 provisions of subsection A.

12905 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person
12906 is charged and convicted of a violation of this section that involved the unlawful obtaining or possession
12907 of any document issued by the Department for the purpose of engaging in any age-limited activity,
12908 including but not limited to obtaining, possessing, or consuming alcoholic beverages or marijuana.
12909 However, if a person is charged and convicted of any other violation of this section, such offense shall
12910 constitute a Class 6 felony.

12911 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
12912 identification card, vehicle registration, certificate of title, or other document issued by the Department
12913 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
12914 notice of the cancellation to the address of record maintained by the Department.

12915 **§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.**

12916 A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial
12917 motor vehicle as defined in § 46.2-341. The attorney for the Commonwealth or the county, city, or town
12918 attorney may prosecute such a case.

12919 Upon the prosecution of a person for a violation of this section, ownership or occupancy of the
12920 vehicle in which marijuana was found shall not create a presumption that such person either knowingly or
12921 intentionally possessed such marijuana.

12922 Any person who violates this section is subject to a civil penalty of no more than \$25. A violation
12923 of this section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited
12924 into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Violations
12925 of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

12926 B. Any violation of this section shall be charged by summons. A summons for a violation of this
12927 section may be executed by a law-enforcement officer when such violation is observed by such officer.
12928 The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the

uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange; however, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

E. The provisions of this section involving marijuana in the form of cannabis oil as that term is defined in § 54.1-3408.3 shall not apply to any person who possesses such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease.

§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card to obtain alcoholic beverages; penalties.

Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United

12956 States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government;
12957 United States Armed Forces identification card; United States passport or foreign government visa;
12958 Virginia Department of Motor Vehicles special identification card; official identification issued by any
12959 other federal, state or foreign government agency; or official student identification card of an institution
12960 of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor,
12961 and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's
12962 license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

12963 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

12964 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court
12965 to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia
12966 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority. The basis for such
12967 petition shall be the operator of the establishment has allowed it to become a meeting place for persons
12968 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent
12969 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief
12970 law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon
12971 the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond,
12972 enjoining the sale of alcohol or marijuana at the establishment, if it appears to the satisfaction of the court
12973 that the threat to public safety complained of exists and is likely to continue if such injunction is not
12974 granted. The court hearing on the petition shall be held within 10 days of service upon the respondent.
12975 The respondent shall be served with notice of the time and place of the hearing and copies of all
12976 documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the
12977 court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of
12978 the injunction has been abated by reason of a change of ownership, management, or business operations
12979 at the establishment, or other change in circumstance.

12980 B. The Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
12981 shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia
12982 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority shall initiate an

12983 investigation into the activities at the establishment complained of and conduct an administrative hearing.
12984 After the Virginia Alcoholic Beverage Control Authority or Virginia Cannabis Control Authority hearing
12985 and when a final determination has been issued by the Virginia Alcoholic Beverage Control Authority or
12986 Virginia Cannabis Control Authority, regardless of disposition, any injunction issued hereunder shall be
12987 null, without further action by the complainant, respondent, or the court.

12988 **§ 51.1-212. Definitions.**

12989 As used in this chapter, unless the context requires a different meaning:

12990 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii)
12991 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
12992 23.1, (iii) conservation police officer in the Department of Wildlife Resources appointed under the
12993 provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic
12994 Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1
12995 or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6
12996 (§ 4.1-600 et seq.) of Title 4.1, (v) law-enforcement officer employed by the Virginia Marine Resources
12997 Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and
12998 including correctional officers employed at a juvenile correction facility as the term is defined in § 66-
12999 25.3, (vii)~~any~~ parole officer appointed pursuant to § 53.1-143, and (viii)~~any~~ commercial vehicle
13000 enforcement officer employed by the Department of State Police.

13001 "Member" means any person included in the membership of the Retirement System as provided
13002 in this chapter.

13003 "Normal retirement date" means a member's sixtieth birthday.

13004 "Retirement System" means the Virginia Law Officers' Retirement System.

13005 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

13006 This section shall apply to any person who is not a qualified voter because of a felony conviction,
13007 who seeks to have his right to register to vote restored and become eligible to register to vote, and who
13008 meets the conditions and requirements set out in this section.

13009 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
13010 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to §§
13011 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or § 18.2-258.02; or (iii)
13012 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which
13013 he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for
13014 restoration of his civil right to be eligible to register to vote through the process set out in this section. On
13015 such petition, the court may approve the petition for restoration to the person of his right if the court is
13016 satisfied from the evidence presented that the petitioner has completed, five or more years previously,
13017 service of any sentence and any modification of sentence including probation, parole, and suspension of
13018 sentence; that the petitioner has demonstrated civic responsibility through community or comparable
13019 service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for
13020 the same period.

13021 If the court approves the petition, it shall so state in an order, provide a copy of the order to the
13022 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the
13023 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date
13024 of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary
13025 of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for
13026 restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the
13027 Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated
13028 on the court's order, a certificate of restoration of that right or notice that the Governor has denied the
13029 restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a
13030 final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the
13031 State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

13032 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
13033 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to
13034 vote.

13035 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

13036 A. Any person shall be regarded as practicing the healing arts who actually engages in such
13037 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces
13038 to the public in any manner a readiness to practice or who uses in connection with his name the words or
13039 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter
13040 or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able
13041 to heal, cure or relieve those suffering from any injury, deformity or disease.

13042 Signing a birth or death certificate, or signing any statement certifying that the person so signing
13043 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or
13044 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
13045 practicing the healing arts within the meaning of this chapter except where persons other than physicians
13046 are required to sign birth certificates.

13047 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
13048 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
13049 abbreviation or designation, or other language that identifies the type of practice for which he is licensed.
13050 No person regulated under this chapter shall include in any advertisement a reference to marijuana, as
13051 defined in ~~§ 18.2-247~~ § 54.1-3401, unless such advertisement is for the treatment of addiction or substance
13052 abuse. However, nothing in this subsection shall prevent a person from including in any advertisement
13053 that such person is registered with the Board of Pharmacy to issue written certifications for the use of
13054 cannabis oil, as defined in § 54.1-3408.3.

13055 **§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

13056 A. As used in this section:

13057 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil
13058 from industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a
13059 dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or
13060 tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol
13061 per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt,

13062 or processed in compliance with state or federal law, unless it has been acquired and formulated with
13063 cannabis plant extract by a pharmaceutical processor.

13064 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine,
13065 a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the
13066 Board of Medicine and the Board of Nursing.

13067 "Registered agent" means an individual designated by a patient who has been issued a written
13068 certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated
13069 by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

13070 B. A practitioner in the course of his professional practice may issue a written certification for the
13071 use of cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease
13072 determined by the practitioner to benefit from such use. The practitioner shall use his professional
13073 judgment to determine the manner and frequency of patient care and evaluation and may employ the use
13074 of telemedicine consistent with federal requirements for the prescribing of Schedule II through V
13075 controlled substances.

13076 C. The written certification shall be on a form provided by the Office of the Executive Secretary
13077 of the Supreme Court developed in consultation with the Board of Medicine. Such written certification
13078 shall contain the name, address, and telephone number of the practitioner, the name and address of the
13079 patient issued the written certification, the date on which the written certification was made, and the
13080 signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no
13081 later than one year after its issuance unless the practitioner provides in such written certification an earlier
13082 expiration.

13083 D. No practitioner shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-
13084 ~~248 or 18.2-248.1~~ for dispensing or distributing cannabis oil for the treatment or to alleviate the symptoms
13085 of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to
13086 subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner
13087 for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable
13088 standard of care for evaluating or treating medical conditions.

13089 E. A practitioner who issues a written certification to a patient pursuant to this section shall register
13090 with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of
13091 patients to whom a practitioner may issue a written certification.

13092 F. A patient who has been issued a written certification shall register with the Board or, if such
13093 patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian
13094 shall register and shall register such patient with the Board.

13095 G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such
13096 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes
13097 of receiving cannabis oil pursuant to a valid written certification. Such designated individual shall register
13098 with the Board. The Board may set a limit on the number patients for whom any individual is authorized
13099 to act as a registered agent.

13100 H. The Board shall promulgate regulations to implement the registration process. Such regulations
13101 shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification,
13102 the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an
13103 incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for
13104 ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a
13105 prohibition for the patient to be issued a written certification by more than one practitioner during any
13106 given time period.

13107 I. Information obtained under the registration process shall be confidential and shall not be subject
13108 to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,
13109 reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee
13110 for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local
13111 law enforcement for the purpose of investigating or prosecuting a specific individual for a specific
13112 violation of law, (iii) licensed practitioners or pharmacists for the purpose of providing patient care and
13113 drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical
13114 processor or cannabis dispensing facility involved in the treatment of a registered patient, or (v) a
13115 registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in

13116 § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such
13117 registered patient.

13118 **§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

13119 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without
13120 first obtaining a permit from the Board. The application for such permit shall be made on a form provided
13121 by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical
13122 processor or cannabis dispensing facility. The Board shall establish an application fee and other general
13123 requirements for such application.

13124 B. Each permit shall expire annually on a date determined by the Board in regulation. The number
13125 of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and
13126 up to five cannabis dispensing facilities for each health service area established by the Board of Health.
13127 Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and
13128 cannabis dispensing facility.

13129 C. The Board shall adopt regulations establishing health, safety, and security requirements for
13130 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements
13131 for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum
13132 equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii)
13133 processes for safely and securely dispensing and delivering in person cannabis oil to a registered patient,
13134 his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such
13135 patient's parent or legal guardian; (ix) dosage limitations, which shall provide that each dispensed dose of
13136 cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale
13137 distribution of and the transfer of cannabis oil products between pharmaceutical processors and between
13138 a pharmaceutical processor and a cannabis dispensing facility; (xi) an allowance for the sale of devices
13139 for administration of dispensed products; (xii) an allowance for the use and distribution of inert product
13140 samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor
13141 or cannabis dispensing facility, and not for further distribution or sale, without the need for a written
13142 certification; and (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil

13143 extract with Cannabis plant extract into allowable dosages of cannabis oil. The Board shall also adopt
13144 regulations for pharmaceutical processors that include requirements for (a) processes for safely and
13145 securely cultivating Cannabis plants intended for producing cannabis oil; (b) a maximum number of
13146 marijuana plants a pharmaceutical processor may possess at any one time; (c) the secure disposal of plant
13147 remains; and (d) a process for registering cannabis oil products.

13148 D. The Board shall require that, after processing and before dispensing cannabis oil, a
13149 pharmaceutical processor shall make a sample available from each homogenized batch of product for
13150 testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size
13151 for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method,
13152 and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for
13153 dispensing or distribution from each homogenized batch is required to achieve a representative sample for
13154 analysis.

13155 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances
13156 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the
13157 Board in regulation.

13158 F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal
13159 supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis
13160 dispensing facility. A pharmacist in charge of a pharmaceutical processor may authorize certain employee
13161 access to secured areas designated for cultivation and other areas approved by the Board. No pharmacist
13162 shall be required to be on the premises during such authorized access. The pharmacist-in-charge shall
13163 ensure security measures are adequate to protect the cannabis from diversion at all times.

13164 G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing
13165 facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded
13166 along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of
13167 Investigation for the purpose of obtaining criminal history record information regarding the applicant. The
13168 cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central

13169 Criminal Records Exchange shall forward the results of the criminal history background check to the
13170 Board or its designee, which shall be a governmental entity.

13171 H. In addition to other employees authorized by the Board, a pharmaceutical processor may
13172 employ individuals who may have less than two years of experience (i) to perform cultivation-related
13173 duties under the supervision of an individual who has received a degree in horticulture or a certification
13174 recognized by the Board or who has at least two years of experience cultivating plants and (ii) to perform
13175 extraction-related duties under the supervision of an individual who has a degree in chemistry or
13176 pharmacology or at least two years of experience extracting chemicals from plants.

13177 I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to
13178 five cannabis dispensing facilities for the dispensing of cannabis oil that has been cultivated and produced
13179 on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility
13180 shall be located within the same health service area as the pharmaceutical processor.

13181 J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or
13182 another jurisdiction or (ii) within the last five years, any offense in violation of Chapter 11 (§ 4.1-1100 et
13183 seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title
13184 18.2 or a substantially similar offense under the laws of another jurisdiction shall be employed by or act
13185 as an agent of a pharmaceutical processor or cannabis dispensing facility.

13186 K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-
13187 employment drug screening and regular, ongoing, random drug screening of employees.

13188 L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall
13189 determine the number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who
13190 can be safely and competently supervised at one time; however, no pharmacist shall supervise more than
13191 six persons performing the duties of a pharmacy technician at one time.

13192 M. Any person who proposes to use an automated process or procedure during the production of
13193 cannabis oil that is not otherwise authorized in law or regulation or at a time when a pharmacist will not
13194 be on-site may apply to the Board for approval to use such process or procedure pursuant to subsections
13195 B through E of § 54.1-3307.2.

13196 N. A pharmaceutical processor may acquire oil from industrial hemp extract processed in Virginia,
13197 and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A
13198 pharmaceutical processor may process and formulate such oil extract with cannabis plant extract into an
13199 allowable dosage of cannabis oil. Oil from industrial hemp acquired by a pharmaceutical processor is
13200 subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall
13201 be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp
13202 dealer or processor shall provide such third-party testing results to the pharmaceutical processor before
13203 oil from industrial hemp may be acquired.

13204 **§ 54.1-3442.8. Criminal liability; exceptions.**

13205 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
13206 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1, or 18.2-250, or~~
13207 ~~18.2-250.1~~ for possession or manufacture of marijuana or for possession, manufacture, or distribution of
13208 cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action
13209 by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana
13210 for the purposes of producing cannabis oil in accordance with the provisions of this article and Board
13211 regulations or (ii) possessed, manufactured, or distributed such cannabis oil in accordance with the
13212 provisions of this article and Board regulations.

13213 **§ 58.1-3. Secrecy of information; penalties.**

13214 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
13215 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
13216 revenue officer or employee, or any person to whom tax information is divulged pursuant to this section
13217 or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall
13218 not divulge any information acquired by him in the performance of his duties with respect to the
13219 transactions, property, including personal property, income or business of any person, firm or corporation.
13220 Such prohibition specifically includes any copy of a federal return or federal return information required
13221 by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any
13222 reports, returns, financial documents or other information filed with the Attorney General pursuant to the

13223 provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions
13224 of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable,
13225 however, to:

13226 1. Matters required by law to be entered on any public assessment roll or book;

13227 2. Acts performed or words spoken, published, or shared with another agency or subdivision of
13228 the Commonwealth in the line of duty under state law;

13229 3. Inquiries and investigations to obtain information as to the process of real estate assessments by
13230 a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant
13231 to its study, provided that any such information obtained shall be privileged;

13232 4. The sales price, date of construction, physical dimensions or characteristics of real property, or
13233 any information required for building permits;

13234 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court
13235 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or
13236 by the commissioner of accounts making a settlement of accounts filed in such estate;

13237 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11,
13238 when requested by the General Assembly or any duly constituted committee of the General Assembly;

13239 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the
13240 provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney
13241 General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant
13242 to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory
13243 established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any
13244 year in which the Attorney General receives Stamping Agent information that potentially alters the
13245 required escrow deposit of the manufacturer. The information shall only be provided in the following
13246 manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the
13247 manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow
13248 deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its
13249 products and the amount reported. The Attorney General shall provide the list within 15 days of receipt

13250 of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed
13251 with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C
13252 of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the
13253 manufacturer may make a written request to the Attorney General, including a copy of the prior written
13254 request to the Stamping Agent and any response received, for copies of any reports not received. The
13255 Attorney General shall provide copies of the reports within 45 days of receipt of the request.

13256 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics
13257 so classified as to prevent the identification of particular reports or returns and the items thereof or the
13258 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with
13259 any relevant information which in the opinion of the Department may assist in the collection of such
13260 delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon
13261 request by the General Assembly or any duly constituted committee of the General Assembly, shall
13262 disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless
13263 of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall
13264 not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is
13265 licensed to do business in that locality and divulging, upon written request, the name and address of any
13266 person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding
13267 any other provision of law, the commissioner of revenue is authorized to provide, upon written request
13268 stating the reason for such request, the Tax Commissioner with information obtained from local tax returns
13269 and other information pertaining to the income, sales and property of any person, firm or corporation
13270 licensed to do business in that locality.

13271 2. This section shall not prohibit the Department from disclosing whether a person, firm, or
13272 corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or
13273 whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding
13274 any other provision of law, the Department is hereby authorized to make available the names and
13275 certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

13276 3. This section shall not prohibit the Department from disclosing information to nongovernmental
13277 entities with which the Department has entered into a contract to provide services that assist it in the
13278 administration of refund processing or other services related to its administration of taxes.

13279 4. This section shall not prohibit the Department from disclosing information to taxpayers
13280 regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of
13281 such taxpayer submitted withholding records to the Department for a specific taxable year as required
13282 pursuant to subdivision C 1 of § 58.1-478.

13283 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance,
13284 or other similar local official who collects or administers taxes for a county, city, or town from disclosing
13285 information to nongovernmental entities with which the locality has entered into a contract to provide
13286 services that assist it in the administration of refund processing or other non-audit services related to its
13287 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar
13288 local official who collects or administers taxes for a county, city, or town shall not disclose information
13289 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality
13290 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such
13291 entity agrees to abide by such obligations.

13292 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
13293 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director
13294 of finance, or other similar collector of county, city, or town taxes who, for the performance of his official
13295 duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
13296 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount
13297 of income, filing status, number and type of dependents, whether a federal earned income tax credit as
13298 authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as
13299 authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of
13300 public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to
13301 Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of
13302 outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal

13303 Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide
13304 to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia,
13305 upon written request, the names and home addresses of those persons identified by the designated
13306 guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address
13307 information upon request to state agencies and institutions for their confidential use in facilitating the
13308 collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in
13309 facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide
13310 to the Commissioner of the Virginia Employment Commission, after entering into a written agreement,
13311 such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid
13312 benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis
13313 Control Authority, upon entering into a written agreement, such tax information as may be necessary to
13314 facilitate the collection of state and local taxes and the administration of the alcoholic beverage or cannabis
13315 control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary
13316 to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the
13317 Treasury for its confidential use such tax information as may be necessary to facilitate the location of
13318 owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation
13319 Commission, upon entering into a written agreement, such tax information as may be necessary to
13320 facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive
13321 Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax
13322 information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide
13323 to the Commissioner of the Department of Agriculture and Consumer Services such tax information as
13324 may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies
13325 who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of
13326 Housing and Community Development for its confidential use such tax information as may be necessary
13327 to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-
13328 270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and
13329 address information to private collectors entering into a written agreement with the Tax Commissioner,

13330 for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions;
13331 however, the Tax Commissioner is not authorized to provide such information to a private collector who
13332 has used or disseminated in an unauthorized or prohibited manner any such information previously
13333 provided to such collector; (xiv) provide current name and address information as to the identity of the
13334 wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who
13335 manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other
13336 equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes
13337 Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement,
13338 such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29;
13339 (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a
13340 written agreement, such tax information as may be necessary to identify persons receiving workers'
13341 compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii)
13342 provide to any commissioner of the revenue, director of finance, or any other officer of any county, city,
13343 or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered
13344 for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and
13345 dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the
13346 Northern Virginia Transportation Commission for his confidential use such tax information as may be
13347 necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner
13348 of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the
13349 Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and
13350 Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development
13351 authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax
13352 information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System
13353 and the Department of Human Resource Management, after entering into a written agreement, such tax
13354 information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii)
13355 provide to the Department of Medical Assistance Services, upon entering into a written agreement, the
13356 name, address, social security number, number and type of personal exemptions, tax-filing status, and

adjusted gross income of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; and (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this

13384 subsection shall be used only for the reason stated in the written request. The treasurer or other local
13385 assessing official may require any person requesting information pursuant to clause (iii) of this subsection
13386 to pay the reasonable cost of providing such information. Any person to whom tax information is divulged
13387 pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though
13388 he were a tax official.

13389 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
13390 treasurer or other collector of taxes for a county, city or town is authorized to provide information relating
13391 to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of
13392 performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction
13393 for use by such commissioner or other official in performing assessments.

13394 This section shall not be construed to prohibit a local tax official from imprinting or displaying on
13395 a motor vehicle local license decal the year, make, and model and any other legal identification
13396 information about the particular motor vehicle for which that local license decal is assigned.

13397 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
13398 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
13399 written request, the name, address, and social security number of a taxpayer, necessary for the performance
13400 of the Commissioner's official duties regarding the administration and enforcement of laws within the
13401 jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his
13402 agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations
13403 under this section.

13404 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any
13405 confidential tax document which he knows or has reason to know is a confidential tax document. A
13406 confidential tax document is any correspondence, document, or tax return that is prohibited from being
13407 divulged by subsection A, B, C, or D and includes any document containing information on the
13408 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
13409 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document

13410 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
13411 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

13412 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

13413 A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic
13414 Beverage Control Authority, the Virginia Cannabis Control Authority, the Virginia Lottery, the Marine
13415 Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the
13416 Department of Forestry, any sheriff, any regional jail board or authority, and any local police department
13417 may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire
13418 department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any
13419 law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any campus
13420 police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or
13421 after July 1, 1991, and the Department of Corrections may allow any employee with internal investigations
13422 authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires
13423 (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred
13424 disability or who is receiving long-term disability payments for a service-incurred disability with no
13425 expectation of returning to the employment where he incurred the disability to purchase the service
13426 handgun issued or previously issued to him by the agency or institution at a price of \$1. If the previously
13427 issued weapon is no longer available, a weapon of like kind may be substituted for that weapon. This
13428 privilege shall also extend to any former Superintendent of the Department of State Police who leaves
13429 service after a minimum of five years. This privilege shall also extend to any person listed in this
13430 subsection who is eligible for retirement with at least 10 years of service who resigns on or after July 1,
13431 1991, in good standing from one of the agencies listed in this section to accept a position covered by the
13432 Virginia Retirement System. Other weapons issued by the agencies listed in this subsection for personal
13433 duty use of an officer may, with approval of the agency head, be sold to the officer subject to the
13434 qualifications of this section at a fair market price determined as in subsection B, so long as the weapon
13435 is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private
13436 citizen without restrictions other than the instant background check.

13437 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
13438 who retires with five or more years of service, but less than 10, to purchase the service handgun issued to
13439 him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's
13440 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in
13441 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the
13442 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the
13443 date of the officer's retirement. Determinations of fair market value may be made by reference to a
13444 recognized pricing guide.

13445 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn
13446 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10
13447 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

13448 D. The governing board of any institution of higher-~~learning~~education named in § 23.1-1100 may
13449 allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
13450 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price
13451 equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair
13452 market value may be made by reference to a recognized pricing guide.

13453 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with
13454 a state agency listed in subsection A, when the agency allows purchases of service handguns, and who
13455 retires after 10 years of state service, even if a portion of his service was with another state agency, may
13456 purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

13457 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a
13458 minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to
13459 him.

13460 G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with
13461 more than 10 years of service to purchase the service handgun issued to him by the agency at a price that
13462 is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

13463 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
13464 currently employed by the agency to purchase his service handgun, with the approval of the chief law-
13465 enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency
13466 has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used
13467 by the agency or officer in the course of duty.

13468 **§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and**
13469 **firefighters.**

13470 A. As used in this section:

13471 "Firefighter" means any (i) salaried firefighter, including special forest wardens designated
13472 pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator
13473 and (ii) volunteer firefighter and volunteer emergency medical services personnel.

13474 "In the line of duty" means any action that a law-enforcement officer or firefighter was obligated
13475 or authorized to perform by rule, regulation, written condition of employment service, or law.

13476 "Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System;
13477 (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of
13478 Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City
13479 of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn
13480 member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer;
13481 (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of
13482 Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority
13483 appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1; (x) for such period that the
13484 Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as
13485 provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan
13486 Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk
13487 Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port
13488 Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
13489 Title 23.1 and employed by any public institution of higher education.

13490 "Mental health professional" means a board-certified psychiatrist or a psychologist licensed
13491 pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

13492 "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-
13493 traumatic stress disorder as specified in the most recent edition of the American Psychiatric Association's
13494 Diagnostic and Statistical Manual of Mental Disorders.

13495 "Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1,
13496 2020:

- 13497 1. Resulting in serious bodily injury or death to any person or persons;
13498 2. Involving a minor who has been injured, killed, abused, or exploited;
13499 3. Involving an immediate threat to life of the claimant or another individual;
13500 4. Involving mass casualties; or
13501 5. Responding to crime scenes for investigation.

13502 B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is
13503 compensable under this title if:

13504 1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses
13505 the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the
13506 individual's undergoing a qualifying event;

13507 2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's
13508 acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal
13509 Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R.
13510 1910.156;

13511 3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial
13512 factor in causing his post-traumatic stress disorder;

13513 4. Such qualifying event, and not another event or source of stress, was the primary cause of the
13514 post-traumatic stress disorder; and

13515 5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation,
13516 job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-
13517 enforcement officer or firefighter.

13518 Any such mental health professional shall comply with any workers' compensation guidelines for
13519 approved medical providers, including guidelines on release of past or contemporaneous medical records.

13520 C. Notwithstanding any provision of this title, workers' compensation benefits for any law-
13521 enforcement officer or firefighter payable pursuant to this section shall (i) include any combination of
13522 medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total
13523 incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii)
13524 be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary
13525 total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall
13526 be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for
13527 benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter
13528 pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and
13529 noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term
13530 disability plan, but not including payments for medical care, shall not exceed the average weekly wage
13531 paid to such law-enforcement officer or firefighter.

13532 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall
13533 (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-
13534 enforcement officer or firefighter seeking mental health care services to a mental health professional.

13535 E. Each fire basic training program conducted or administered by the Department of Fire Programs
13536 or a municipal fire department in the Commonwealth shall provide, in consultation with the Department
13537 of Behavioral Health and Developmental Services, resilience and self-care technique training for any
13538 individual who begins basic training as a firefighter on or after July 1, 2021.

13539 **§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or**
13540 **heart disease, cancer.**

13541 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department
13542 of Emergency Management hazardous materials officers or(ii) any health condition or impairment of such
13543 firefighters or Department of Emergency Management hazardous materials officers resulting in total or
13544 partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are
13545 covered by this title unless such presumption is overcome by a preponderance of competent evidence to
13546 the contrary.

13547 B. Hypertension or heart disease causing the death of, or any health condition or impairment
13548 resulting in total or partial disability of any of the following persons who have completed five years of
13549 service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers'
13550 Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy
13551 sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or
13552 deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation
13553 police officers who are full-time sworn members of the enforcement division of the Department of Wildlife
13554 Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control
13555 Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agents of
13556 the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.)
13557 of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects
13558 itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established
13559 and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force
13560 established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force
13561 established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed
13562 under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of
13563 higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are
13564 covered by this title unless such presumption is overcome by a preponderance of competent evidence to
13565 the contrary.

13566 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer
13567 causing the death of, or any health condition or impairment resulting in total or partial disability of, any

13568 volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer,
13569 commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of
13570 State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles
13571 having completed five years of service shall be presumed to be an occupational disease, suffered in the
13572 line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of
13573 competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply
13574 for any individual who was diagnosed with such a condition before July 1, 2020.

13575 D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to
13576 invoke them have, if requested by the private employer, appointing authority or governing body
13577 employing them, undergone preemployment physical examinations that (i) were conducted prior to the
13578 making of any claims under this title that rely on such presumptions, (ii) were performed by physicians
13579 whose qualifications are as prescribed by the private employer, appointing authority or governing body
13580 employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the
13581 private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such
13582 persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

13583 E. Persons making claims under this title who rely on such presumptions shall, upon the request
13584 of private employers, appointing authorities or governing bodies employing such persons, submit to
13585 physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their
13586 representatives and (ii) consisting of such tests and studies as may reasonably be required by such
13587 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election
13588 of such claimant, be present at such examination.

13589 F. Whenever a claim for death benefits is made under this title and the presumptions of this section
13590 are invoked, any person entitled to make such claim shall, upon the request of the appropriate private
13591 employer, appointing authority or governing body that had employed the deceased, submit the body of
13592 the deceased to a postmortem examination as may be directed by the Commission. A qualified physician,
13593 selected and compensated by the person entitled to make the claim, may, at the election of such claimant,
13594 be present at such postmortem examination.

13595 G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains,
13596 auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage
13597 of this section.

13598 H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant
13599 to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to
13600 perform firefighting services.

13601 **§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

13602 A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health
13603 condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter,
13604 or salaried or volunteer emergency medical services personnel, (ii) member of the State Police Officers'
13605 Retirement System, (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff,
13606 (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city
13607 sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer
13608 who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources,
13609 (ix) Capitol Police officer, (x) special agent of the Virginia Alcoholic Beverage Control Authority
13610 appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia
13611 Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1,
13612 (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the
13613 provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained
13614 by the Metropolitan Washington Airports Authority, (xii) officer of the police force established and
13615 maintained by the Norfolk Airport Authority, (xiii) conservation officer of the Department of
13616 Conservation and Recreation commissioned pursuant to § 10.1-115, (xiv) sworn officer of the police force
13617 established and maintained by the Virginia Port Authority, (xv) campus police officer appointed under
13618 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher
13619 education, (xvi) correctional officer as defined in § 53.1-1, or (xvii) full-time sworn member of the
13620 enforcement division of the Department of Motor Vehicles who has a documented occupational exposure
13621 to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government

13622 duty, that are covered by this title unless such presumption is overcome by a preponderance of competent
13623 evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July
13624 1, 2002, shall be deemed "documented" if the person covered under this section gave notice, written or
13625 otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to
13626 July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or
13627 otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-
13628 1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the
13629 presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis,
13630 or HIV before July 1, 2020.

13631 B. As used in this section:

13632 "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids
13633 to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as
13634 established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis,
13635 meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory,
13636 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which
13637 infectious airborne or blood-borne organisms can be transmitted between persons.

13638 "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any
13639 other strain of hepatitis generally recognized by the medical community.

13640 "HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type
13641 I or type II, causing immunodeficiency syndrome.

13642 "Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV,
13643 means an exposure that occurs during the performance of job duties that places a covered employee at risk
13644 of infection.

13645 C. Persons covered under this section who test positive for exposure to the enumerated
13646 occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be
13647 entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual

13648 medical examination to measure the progress of the condition, if any, and any other medical treatment,
13649 prophylactic or otherwise.

13650 D. Whenever any standard, medically-recognized vaccine or other form of immunization or
13651 prophylaxis exists for the prevention of a communicable disease for which a presumption is established
13652 under this section, if medically indicated by the given circumstances pursuant to immunization policies
13653 established by the Advisory Committee on Immunization Practices of the United States Public Health
13654 Service, a person subject to the provisions of this section may be required by such person's employer to
13655 undergo the immunization or prophylaxis unless the person's physician determines in writing that the
13656 immunization or prophylaxis would pose a significant risk to the person's health. Absent such written
13657 declaration, failure or refusal by a person subject to the provisions of this section to undergo such
13658 immunization or prophylaxis shall disqualify the person from any presumption established by this section.

13659 E. The presumptions described in subsection A shall only apply if persons entitled to invoke them
13660 have, if requested by the appointing authority or governing body employing them, undergone
13661 preemployment physical examinations that (i) were conducted prior to the making of any claims under
13662 this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as
13663 prescribed by the appointing authority or governing body employing such persons, (iii) included such
13664 appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may
13665 have prescribed, and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or
13666 HIV at the time of such examinations. The presumptions described in subsection A shall not be effective
13667 until six months following such examinations, unless such persons entitled to invoke such presumption
13668 can demonstrate a documented exposure during the six-month period.

13669 F. Persons making claims under this title who rely on such presumption shall, upon the request of
13670 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)
13671 conducted by physicians selected by such appointing authorities or governing bodies or their
13672 representatives and (ii) consisting of such tests and studies as may reasonably be required by such
13673 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election
13674 of such claimant, be present at such examination.

2. That §§ 3.2-4113, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 18.2-251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-308.09, 18.2-308.1:5, 19.2-188.1, 24.2-233, 54.1-3442.6, and 54.1-3442.8 of the Code of Virginia are amended and reacted as follows:

§ 3.2-4113. Production of industrial hemp lawful.

A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent, dealer or his agent, or processor or his agent shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, or ~~18.2-250.1~~ Article 1.4 (§ 18.2-265.22 et. seq.) of Chapter 7 of Title 18.2 for the possession, growing, dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

C. No person shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, or ~~18.2-250.1~~ Article 1.4 (§ 18.2-265.22 et. seq.) of Chapter 7 of Title 18.2 for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or process site.

§ 16.1-69.48:1. (Effective until March 1, 2021) Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added.

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant

13702 successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver
13703 improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 16.1-
13704 278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 18.2-265.22, 19.2-303.2, or 19.2-303.6; or (vi) proof of
13705 compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716,
13706 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

13707 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever
13708 a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such
13709 failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the
13710 applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in
13711 absence related to that incident. However, when a defendant who has multiple charges arising from the
13712 same incident and who has been assessed a fixed fee for one of those charges is later convicted of another
13713 charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference
13714 between the fixed fee earlier assessed and the higher fixed fee.

13715 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident
13716 even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

13717 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk
13718 shall also assess any costs otherwise specifically provided by statute.

13719 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection
13720 C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for
13721 the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts
13722 designated:

- 13723 1. Processing fee (General Fund) (.573770);
- 13724 2. Virginia Crime Victim-Witness Fund (.049180);
- 13725 3. Regional Criminal Justice Training Academies Fund (.016393);
- 13726 4. Courthouse Construction/Maintenance Fund (.032787);
- 13727 5. Criminal Injuries Compensation Fund (.098361);
- 13728 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);

- 13729 7. Sentencing/supervision fee (General Fund) (.131148); and
- 13730 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).
- 13731 C. In criminal actions and proceedings in district court for a violation of any provision of Article
- 13732 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.
- 13733 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to
- 13734 the following funds in the fractional amounts designated:
- 13735 1. Processing fee (General Fund)(.257353);
- 13736 2. Virginia Crime Victim-Witness Fund (.022059);
- 13737 3. Regional Criminal Justice Training Academies Fund (.007353);
- 13738 4. Courthouse Construction/Maintenance Fund (.014706);
- 13739 5. Criminal Injuries Compensation Fund (.044118);
- 13740 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 13741 7. Drug Offender Assessment and Treatment Fund (.551471);
- 13742 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 13743 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).
- 13744 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
- 13745 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law,
- 13746 to the following funds in the fractional amounts designated:
- 13747 1. Processing fee (General Fund) (.764706);
- 13748 2. Virginia Crime Victim-Witness Fund (.058824);
- 13749 3. Regional Criminal Justice Training Academies Fund (.019608);
- 13750 4. Courthouse Construction/Maintenance Fund (.039216);
- 13751 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 13752 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).
- 13753 **§ 16.1-69.48:1. (Effective March 1, 2021) Fixed fee for misdemeanors, traffic infractions and**
- 13754 **other violations in district court; additional fees to be added.**

13755 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court
13756 hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing
13757 and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a
13758 finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant
13759 successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver
13760 improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 16.1-
13761 278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 18.2-265.22, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or (vi) proof
13762 of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716,
13763 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

13764 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever
13765 a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such
13766 failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the
13767 applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in
13768 absence related to that incident. However, when a defendant who has multiple charges arising from the
13769 same incident and who has been assessed a fixed fee for one of those charges is later convicted of another
13770 charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference
13771 between the fixed fee earlier assessed and the higher fixed fee.

13772 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident
13773 even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

13774 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk
13775 shall also assess any costs otherwise specifically provided by statute.

13776 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection
13777 C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for
13778 the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts
13779 designated:

- 13780 1. Processing fee (General Fund) (.573770);
13781 2. Virginia Crime Victim-Witness Fund (.049180);

- 13782 3. Regional Criminal Justice Training Academies Fund (.016393);
- 13783 4. Courthouse Construction/Maintenance Fund (.032787);
- 13784 5. Criminal Injuries Compensation Fund (.098361);
- 13785 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 13786 7. Sentencing/supervision fee (General Fund) (.131148); and
- 13787 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).
- 13788 C. In criminal actions and proceedings in district court for a violation of any provision of Article
- 13789 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.
- 13790 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to
- 13791 the following funds in the fractional amounts designated:
- 13792 1. Processing fee (General Fund)(.257353);
- 13793 2. Virginia Crime Victim-Witness Fund (.022059);
- 13794 3. Regional Criminal Justice Training Academies Fund (.007353);
- 13795 4. Courthouse Construction/Maintenance Fund (.014706);
- 13796 5. Criminal Injuries Compensation Fund (.044118);
- 13797 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 13798 7. Drug Offender Assessment and Treatment Fund (.551471);
- 13799 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 13800 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).
- 13801 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
- 13802 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law,
- 13803 to the following funds in the fractional amounts designated:
- 13804 1. Processing fee (General Fund)(.764706);
- 13805 2. Virginia Crime Victim-Witness Fund (.058824);
- 13806 3. Regional Criminal Justice Training Academies Fund (.019608);
- 13807 4. Courthouse Construction/Maintenance Fund (.039216);
- 13808 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and

6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic

13836 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
13837 communications and proceedings shall be conducted in the same manner as if the appearance were in
13838 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or
13839 executed by the officer or person to whom sent, and returned in the same manner, and with the same force,
13840 effect, authority, and liability as an original document. All signatures thereon shall be treated as original
13841 signatures. Any two-way electronic video and audio communication system used for an appearance shall
13842 meet the standards as set forth in subsection B of § 19.2-3.1.

13843 When the court service unit of any court receives a complaint alleging facts which may be
13844 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer,
13845 may proceed informally to make such adjustment as is practicable without the filing of a petition or may
13846 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish
13847 probable cause for the issuance of the petition.

13848 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
13849 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent
13850 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for
13851 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed
13852 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for
13853 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had
13854 previously been proceeded against informally by intake or had been adjudicated delinquent for an offense
13855 that would be a felony if committed by an adult.

13856 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258
13857 and the attendance officer has provided documentation to the intake officer that the relevant school
13858 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with
13859 the court. The intake officer may defer filing the petition and proceed informally by developing a truancy
13860 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated
13861 in need of supervision on more than two occasions for failure to comply with compulsory school
13862 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication

13863 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents,
13864 guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy
13865 plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or
13866 other person standing in loco parentis participate in such programs, cooperate in such treatment, or be
13867 subject to such conditions and limitations as necessary to ensure the juvenile's compliance with
13868 compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the
13869 appropriate public agency for the purpose of developing a truancy plan using an interagency
13870 interdisciplinary team approach. The team may include qualified personnel who are reasonably available
13871 from the appropriate department of social services, community services board, local school division, court
13872 service unit, and other appropriate and available public and private agencies and may be the family
13873 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the
13874 juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer
13875 shall file the petition.

13876 Whenever informal action is taken as provided in this subsection on a complaint alleging that a
13877 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a
13878 plan for the juvenile, which may include restitution and the performance of community service, based
13879 upon community resources and the circumstances which resulted in the complaint, (B) create an official
13880 record of the action taken by the intake officer and file such record in the juvenile's case file, and (C)
13881 advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the
13882 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent
13883 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241
13884 may result in the filing of a petition with the court.

13885 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
13886 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
13887 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
13888 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
13889 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective

13890 order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force,
13891 or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
13892 152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file
13893 a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in
13894 need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause
13895 does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile
13896 or that the matter may be effectively dealt with by some agency other than the court, he may refuse to
13897 authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order
13898 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures
13899 and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or
13900 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
13901 152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits
13902 applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

13903 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
13904 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in
13905 need of supervision have utilized or attempted to utilize treatment and services available in the community
13906 and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake
13907 officer determines that the parties have not attempted to utilize available treatment or services or have not
13908 exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the
13909 child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to
13910 receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that
13911 the parties have made a reasonable effort to utilize available community treatment or services may he
13912 permit the petition to be filed.

13913 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
13914 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in
13915 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate
13916 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic

relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1;

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any other alcohol-related offense, ~~or a violation of § 18.2-250.1~~, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9.

13971 If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738
13972 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis
13973 pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be
13974 followed except that the magistrate shall authorize execution of the warrant as a summons. The summons
13975 shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be
13976 forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 or ~~18.2-250.1~~ is
13977 charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration
13978 of informal proceedings pursuant to subsection B, provided that such right is exercised by written
13979 notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation
13980 of § 4.1-305 or ~~18.2-250.1~~ is served, the officer shall also serve upon the juvenile written notice of the
13981 right to have the charge referred to intake on a form approved by the Supreme Court and make return of
13982 such service to the court. If the officer fails to make such service or return, the court shall dismiss the
13983 summons without prejudice.

13984 4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or
13985 Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in §
13986 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided
13987 by law for adults provided that notice of the summons to appear is mailed by the investigating officer
13988 within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

13989 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court
13990 of the jurisdiction granted it in § 16.1-241.

13991 **§ 16.1-273. Court may require investigation of social history and preparation of victim**
13992 **impact statement.**

13993 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
13994 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation
13995 of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
13996 violations, the court before final disposition thereof may require an investigation, which (i) shall include
13997 a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include

a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, or (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, ~~or (c) a violation of § 18.2-250.1,~~ the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug tests; costs and fees; education or treatment programs.

Whenever any juvenile who has not previously been found delinquent of any offense under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, Article 1.4 (§ 18.2-265.22 et. seq.) of Chapter 7 of Title 18.2, or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic drugs, or has not previously had a proceeding against him for a violation of such an offense dismissed as provided in § 18.2-251, is found delinquent of any offense concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances and like substances, the juvenile court or the circuit court shall require such juvenile to undergo a substance abuse screening pursuant to § 16.1-273 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by a court

14025 services unit of the Department of Juvenile Justice, or by a locally operated court services unit or by
14026 personnel of any program or agency approved by the Department. The cost of such testing ordered by the
14027 court shall be paid by the Commonwealth from funds appropriated to the Department for this purpose.
14028 The court shall also order the juvenile to undergo such treatment or education program for substance
14029 abuse, if available, as the court deems appropriate based upon consideration of the substance abuse
14030 assessment. The treatment or education shall be provided by a program licensed by the Department of
14031 Behavioral Health and Developmental Services or by a similar program available through a facility or
14032 program operated by or under contract to the Department of Juvenile Justice or a locally operated court
14033 services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-
14034 309.2 et seq.).

14035 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
14036 **offenses; truancy.**

14037 A. If a court has found facts which would justify a finding that a child at least 13 years of age at
14038 the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
14039 ordinance of any county, city or town, (ii) a refusal to take a breath test in violation of § 18.2-268.2, (iii)
14040 a felony violation of § 18.2-248, 18.2-248.1 or 18.2-250, (iv) a misdemeanor violation of § 18.2-248, 18.2-
14041 248.1, or 18.2-250 or ~~a violation of § 18.2-250.1~~ of Article 1.4 (§ 18.2-265.22 et. seq.) of Chapter 7 of
14042 Title 18.2, (v) the unlawful purchase, possession or consumption of alcohol in violation of § 4.1-305 or
14043 the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of
14044 § 4.1-309, (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city or
14045 town, (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined
14046 below, or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may
14047 impose as provided by law for the offense, that the child be denied a driver's license. In addition to any
14048 other penalty authorized by this section, if the offense involves a violation designated under clause (i) and
14049 the child was transporting a person 17 years of age or younger, the court shall impose the additional fine
14050 and order community service as provided in § 18.2-270. If the offense involves a violation designated
14051 under clause (i), (ii), (iii) or (viii), the denial of a driver's license shall be for a period of one year or until

14052 the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year
14053 or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.
14054 If the offense involves a violation designated under clause (iv), (v) or (vi) the denial of driving privileges
14055 shall be for a period of six months unless the offense is committed by a child under the age of 16 years
14056 and three months, in which case the child's ability to apply for a driver's license shall be delayed for a
14057 period of six months following the date he reaches the age of 16 and three months. If the offense involves
14058 a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may
14059 enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency
14060 charge until such time as the court disposes of the case pursuant to subsection F ~~of this section~~. If the
14061 offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction
14062 and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the
14063 offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a
14064 period of not less than 30 days, except when the offense involves possession of a concealed handgun or a
14065 striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind
14066 with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of
14067 driving privileges shall be for a period of two years unless the offense is committed by a child under the
14068 age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be
14069 delayed for a period of two years following the date he reaches the age of 16 and three months.

14070 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
14071 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
14072 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of
14073 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period
14074 of not less than 30 days following the date he reaches the age of 16 and three months.

14075 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
14076 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's
14077 ability to apply for a driver's license for a period of one year following the date he reaches the age of 16
14078 and three months, as may be appropriate.

14079 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
14080 of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or
14081 until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one
14082 year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such
14083 offense.

14084 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
14085 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held
14086 in the physical custody of the court during any period of license denial.

14087 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
14088 which shall preserve a record thereof. The report and the record shall include a statement as to whether
14089 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
14090 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) ~~of this chapter~~ or the
14091 provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for
14092 the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department
14093 of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

14094 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
14095 driver's license until such time as is stipulated in the court order or until notification by the court of
14096 withdrawal of the order of denial under subsection E.

14097 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
14098 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol
14099 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may
14100 set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or
14101 (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon
14102 such terms and conditions as the court may set forth.

14103 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
14104 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
14105 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set

14106 forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license
14107 shall be issued for travel to and from home and school when school-provided transportation is available
14108 and no restricted license shall be issued if the finding as to such child involves a violation designated
14109 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense
14110 designated in subsection A, a second finding by the court of failure to comply with school attendance and
14111 meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a
14112 refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set
14113 forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate
14114 the restrictions imposed and contain such information regarding the child as is reasonably necessary to
14115 identify him. The child may operate a motor vehicle under the court order in accordance with its terms.
14116 Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section
14117 is guilty of a violation of § 46.2-301.

14118 E. Upon petition made at least 90 days after issuance of the order, the court may review and
14119 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
14120 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed
14121 and withdrawn until one year after its issuance.

14122 F. If the finding as to such child involves a first violation designated under clause (vii) of
14123 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's
14124 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or
14125 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
14126 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
14127 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
14128 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
14129 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a
14130 violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant
14131 to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the

14132 finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the
14133 charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

14134 **§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.**

14135 There is hereby established in the state treasury the Drug Offender Assessment and Treatment
14136 Fund, which shall consist of moneys received from (i) fees imposed on certain drug offense convictions
14137 pursuant to § 16.1-69.48:3 and subdivisions A 10 and 11 of § 17.1-275 and (ii) civil penalties imposed for
14138 violations of ~~§ 18.2-250.4~~ § 18.2-265.22. All interest derived from the deposit and investment of moneys in
14139 the Fund shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall
14140 remain in the Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the
14141 general fund at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation
14142 by the General Assembly to the Department of Corrections, the Department of Juvenile Justice, and the
14143 Commission on VASAP to implement and operate the offender substance abuse screening and assessment
14144 program; the Department of Criminal Justice Services for the support of community-based probation and
14145 local pretrial services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia
14146 for the support of drug treatment court programs.

14147 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

14148 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
14149 consumption or use of a controlled substance, alcohol, or any combination of such substances.

14150 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
14151 consumption of alcohol pursuant to § 4.1-305, possession of a controlled substance pursuant to § 18.2-
14152 250, possession of marijuana pursuant to ~~§ 18.2-250.4~~ § 18.2-265.22, intoxication in public pursuant to §
14153 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

14154 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,
14155 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an
14156 overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains
14157 emergency medical attention for such individual, by contemporaneously reporting such overdose to a

14158 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a
14159 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

14160 2. Such individual remains at the scene of the overdose or at any alternative location to which he
14161 or the person requiring emergency medical attention has been transported until a law-enforcement officer
14162 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose
14163 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set
14164 forth herein;

14165 3. Such individual identifies himself to the law-enforcement officer who responds to the report of
14166 the overdose; and

14167 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
14168 result of the individual seeking or obtaining emergency medical attention.

14169 C. The provisions of this section shall not apply to any person who seeks or obtains emergency
14170 medical attention for himself or another individual, or to a person experiencing an overdose when another
14171 individual seeks or obtains emergency medical attention for him, during the execution of a search warrant
14172 or during the conduct of a lawful search or a lawful arrest.

14173 D. This section does not establish protection from arrest or prosecution for any individual or
14174 offense other than those listed in subsection B.

14175 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
14176 determined that the person arrested was immune from prosecution under this section.

14177 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

14178 No school nurse employed by a local school board, person employed by a local health department
14179 who is assigned to the public school pursuant to an agreement between the local health department and
14180 the school board, or other person employed by or contracted with a local school board to deliver health-
14181 related services shall be prosecuted under § 18.2-248, 18.2-248.1, 18.2-250, ~~18.2-250.1~~, or 18.2-255, or
14182 under Article 1.4 (§ 18.2-265.22 et seq.) for the possession or distribution of cannabis oil for storing,
14183 dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school board,

14184 to a student who has been issued a valid written certification for the use of cannabis oil in accordance with
14185 subsection B of § 54.1-3408.3.

14186 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**
14187 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

14188 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
14189 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
14190 under § 18.2-248, 18.2-248.1, or 18.2-250, or ~~18.2-250.1~~ under Article 1.4 (§ 18.2-265.22 et seq.) for the
14191 possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis
14192 oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in
14193 accordance with subsection B of § 54.1-3408.3 and has registered with the Board of Pharmacy.

14194 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.**

14195 No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or
14196 industrial hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower,
14197 or a licensed industrial hemp processor for the purpose of performing required testing shall be prosecuted
14198 under § 18.2-248, 18.2-248.1, 18.2-250, ~~18.2-250.1~~, or 18.2-255, or under Article 1.4 (§ 18.2-265.22 et
14199 seq.) for the possession or distribution of cannabis oil, or industrial hemp, or for storing cannabis oil, or
14200 industrial hemp for testing purposes in accordance with regulations promulgated by the Board of
14201 Pharmacy and the Board of Agriculture and Consumer Services.

14202 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

14203 The following persons shall be deemed disqualified from obtaining a permit:

14204 1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to §
14205 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other
14206 state or of the United States.

14207 1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-
14208 308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, or 18.2-308.1:7 or the substantially similar law of any
14209 other state or of the United States.

14210 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was
14211 discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the
14212 date of his application for a concealed handgun permit.

14213 3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose
14214 competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his
14215 application for a concealed handgun permit.

14216 4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was
14217 released from commitment less than five years before the date of this application for a concealed handgun
14218 permit.

14219 5. An individual who is subject to a restraining order, or to a protective order and prohibited by §
14220 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

14221 6. (Effective until January 1, 2021) An individual who is prohibited by § 18.2-308.2 from
14222 possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection
14223 C of that section.

14224 6. (Effective January 1, 2021) An individual who is prohibited by § 18.2-308.2 from possessing or
14225 transporting a firearm, except that a restoration order may be obtained in accordance with subsection C of
14226 that section.

14227 7. An individual who has been convicted of two or more misdemeanors within the five-year period
14228 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the
14229 judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic
14230 infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this
14231 disqualification.

14232 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
14233 cannabinoids, or any controlled substance.

14234 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar
14235 local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other

14236 state, the District of Columbia, the United States, or its territories within the three-year period immediately
14237 preceding the application.

14238 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

14239 11. An individual who has been discharged from the armed forces of the United States under
14240 dishonorable conditions.

14241 12. An individual who is a fugitive from justice.

14242 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts
14243 by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
14244 of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating
14245 that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a
14246 disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a
14247 weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the
14248 attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy
14249 sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written
14250 statement made under oath before a notary public of a competent person having personal knowledge of
14251 the specific acts.

14252 14. An individual who has been convicted of any assault, assault and battery, sexual battery,
14253 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation
14254 of § 18.2-282 within the three-year period immediately preceding the application.

14255 15. An individual who has been convicted of stalking.

14256 16. An individual whose previous convictions or adjudications of delinquency were based on an
14257 offense that would have been at the time of conviction a felony if committed by an adult under the laws
14258 of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier,
14259 only convictions occurring within 16 years following the later of the date of (i) the conviction or
14260 adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be
14261 deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an
14262 individual with previous adjudications of delinquency who has completed a term of service of no less than

two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge.

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.)-~~or, former § 18.2-248.1:1,~~ or Article 1.4 (§ 18.2-265.22 et seq.), or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.)-~~or, former § 18.2-248.1:1,~~ or Article 1.4 (§ 18.2-265.22 et seq.), or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses prohibited.

Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor offenses under subsection B of former § 18.2-248.1:1, § 18.2-250 or ~~18.2-250.1~~ under Article 1.4 (§ 18.2-265.22 et seq.) shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of five years from the date of the second conviction and provided the person has not been convicted of any such offense within that period, the ineligibility shall be removed.

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of Article 1 (§ 18.2-247 et seq.) or Article 1.4 (§ 18.2-265.22 et seq.) of Chapter 7 of Title 18.2 or a violation of subdivision 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247.

B. In any trial for a violation of ~~§ 18.2-250.1~~ § 18.2-265.22, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of ~~§ 18.2-250.1~~ § 18.2-265.22, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

§ 24.2-233. Removal of elected and certain appointed officers by courts.

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office;

14317 2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.)~~or~~ Article 1.1 (§
14318 18.2-265.1 et seq.), or Article 1.4 (§ 18.2-265.22 et seq.) of Chapter 7 of Title 18.2 and after all rights of
14319 appeal have terminated involving the:

14320 a. manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or
14321 distribute a controlled substance or marijuana;

14322 b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug
14323 paraphernalia; or

14324 c. Possession of any controlled substance or marijuana and such conviction under subdivision a,
14325 b, or c has a material adverse effect upon the conduct of such office;

14326 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a
14327 "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the
14328 conduct of such office; or

14329 4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of
14330 § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into
14331 dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of
14332 age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose
14333 himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of
14334 such office.

14335 The petition must be signed by a number of registered voters who reside within the jurisdiction of
14336 the officer equal to ten percent of the total number of votes cast at the last election for the office that the
14337 officer holds.

14338 Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be
14339 subsequently subject to the provisions of this section for the same criminal offense.

14340 **§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

14341 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without
14342 first obtaining a permit from the Board. The application for such permit shall be made on a form provided
14343 by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical

14344 processor or cannabis dispensing facility. The Board shall establish an application fee and other general
14345 requirements for such application.

14346 B. Each permit shall expire annually on a date determined by the Board in regulation. The number
14347 of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and
14348 up to five cannabis dispensing facilities for each health service area established by the Board of Health.
14349 Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and
14350 cannabis dispensing facility.

14351 C. The Board shall adopt regulations establishing health, safety, and security requirements for
14352 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements
14353 for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum
14354 equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii)
14355 processes for safely and securely dispensing and delivering in person cannabis oil to a registered patient,
14356 his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such
14357 patient's parent or legal guardian; (ix) dosage limitations, which shall provide that each dispensed dose of
14358 cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale
14359 distribution of and the transfer of cannabis oil products between pharmaceutical processors and between
14360 a pharmaceutical processor and a cannabis dispensing facility; (xi) an allowance for the sale of devices
14361 for administration of dispensed products; (xii) an allowance for the use and distribution of inert product
14362 samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor
14363 or cannabis dispensing facility, and not for further distribution or sale, without the need for a written
14364 certification; and (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil
14365 extract with Cannabis plant extract into allowable dosages of cannabis oil. The Board shall also adopt
14366 regulations for pharmaceutical processors that include requirements for (a) processes for safely and
14367 securely cultivating Cannabis plants intended for producing cannabis oil; (b) a maximum number of
14368 marijuana plants a pharmaceutical processor may possess at any one time; (c) the secure disposal of plant
14369 remains; and (d) a process for registering cannabis oil products.

14370 D. The Board shall require that, after processing and before dispensing cannabis oil, a
14371 pharmaceutical processor shall make a sample available from each homogenized batch of product for
14372 testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size
14373 for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method,
14374 and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for
14375 dispensing or distribution from each homogenized batch is required to achieve a representative sample for
14376 analysis.

14377 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances
14378 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the
14379 Board in regulation.

14380 F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal
14381 supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis
14382 dispensing facility. A pharmacist in charge of a pharmaceutical processor may authorize certain employee
14383 access to secured areas designated for cultivation and other areas approved by the Board. No pharmacist
14384 shall be required to be on the premises during such authorized access. The pharmacist-in-charge shall
14385 ensure security measures are adequate to protect the cannabis from diversion at all times.

14386 G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing
14387 facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded
14388 along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of
14389 Investigation for the purpose of obtaining criminal history record information regarding the applicant. The
14390 cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central
14391 Criminal Records Exchange shall forward the results of the criminal history background check to the
14392 Board or its designee, which shall be a governmental entity.

14393 H. In addition to other employees authorized by the Board, a pharmaceutical processor may
14394 employ individuals who may have less than two years of experience (i) to perform cultivation-related
14395 duties under the supervision of an individual who has received a degree in horticulture or a certification
14396 recognized by the Board or who has at least two years of experience cultivating plants and (ii) to perform

14397 extraction-related duties under the supervision of an individual who has a degree in chemistry or
14398 pharmacology or at least two years of experience extracting chemicals from plants.

14399 I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to
14400 five cannabis dispensing facilities for the dispensing of cannabis oil that has been cultivated and produced
14401 on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility
14402 shall be located within the same health service area as the pharmaceutical processor.

14403 J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or
14404 another jurisdiction or (ii) within the last five years, any offense in violation of Article 1 (§ 18.2-247 et
14405 seq.)-~~or~~, Article 1.1 (§ 18.2-265.1 et seq.), Article 1.4 (§ 18.2-265.22 et seq.) of Chapter 7 of Title 18.2 or
14406 a substantially similar offense under the laws of another jurisdiction shall be employed by or act as an
14407 agent of a pharmaceutical processor or cannabis dispensing facility.

14408 K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-
14409 employment drug screening and regular, ongoing, random drug screening of employees.

14410 L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall
14411 determine the number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who
14412 can be safely and competently supervised at one time; however, no pharmacist shall supervise more than
14413 six persons performing the duties of a pharmacy technician at one time.

14414 M. Any person who proposes to use an automated process or procedure during the production of
14415 cannabis oil that is not otherwise authorized in law or regulation or at a time when a pharmacist will not
14416 be on-site may apply to the Board for approval to use such process or procedure pursuant to subsections
14417 B through E of § 54.1-3307.2.

14418 N. A pharmaceutical processor may acquire oil from industrial hemp extract processed in Virginia,
14419 and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A
14420 pharmaceutical processor may process and formulate such oil extract with cannabis plant extract into an
14421 allowable dosage of cannabis oil. Oil from industrial hemp acquired by a pharmaceutical processor is
14422 subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall
14423 be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp

14424 dealer or processor shall provide such third-party testing results to the pharmaceutical processor before
14425 oil from industrial hemp may be acquired.

14426 **§ 54.1-3442.8. Criminal liability; exceptions.**

14427 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
14428 prosecuted under § 18.2-248, 18.2-248.1, 18.2-250, or ~~18.2-250.1~~ under Article 1.4 (§ 18.2-265.22 et.
14429 seq.) of Chapter 7 of Title 18.2 for possession or manufacture of marijuana or for possession, manufacture,
14430 or distribution of cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any
14431 disciplinary action by a professional licensing board if such agent or employee (i) possessed or
14432 manufactured such marijuana for the purposes of producing cannabis oil in accordance with the provisions
14433 of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis oil in
14434 accordance with the provisions of this article and Board regulations.

14435 **3. That §§ 18.2-248.1, 18.2-251.1, and 19.2-389.3 of the Code of Virginia are repealed.**

14436 **4. That, except as provided in the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth,**
14437 **thirteenth, fourteenth, fifteenth, sixteenth, eighteenth, nineteenth, twentieth, and twenty-first**
14438 **enactments of this act, the provisions of this act shall become effective on January 1, 2023.**

14439 **5. That the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2, §§ 4.1-601**
14440 **through 4.1-633, 15.2-1627, 16.1-228, Article 1.4 (§ 18.2-265.22 et seq.) of Chapter 7 of Title 18.2, §**
14441 **19.2-392.2, except clause (v) of subsection A, and § 46.2-341.20:7 of the Code of Virginia, as created**
14442 **by this act, shall become effective on July 1, 2021.**

14443 **6. That the Board of Directors of the Virginia Cannabis Control Authority (the Board) shall**
14444 **promulgate regulations to implement the provision of this act by July 1, 2023. With the exception**
14445 **of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§**
14446 **2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant**
14447 **thereto shall apply to the adoption of any regulation pursuant to this act. Prior to adopting any**
14448 **regulation pursuant to this act, the Board shall publish a notice of opportunity to comment in the**
14449 **Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such**
14450 **notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the**

14451 text of the proposed regulation; and (iii) the name, address, and telephone number of the agency
14452 contact person responsible for receiving public comments. Such notice shall be made at least 60 days
14453 in advance of the last date prescribed in such notice for submittals of public comment. The
14454 legislative review provisions of subsections A and B of § 2.2-4014 of the Code of Virginia shall apply
14455 to the promulgation or final adoption process for regulations pursuant to this act. The Board shall
14456 consider and keep on file all public comments received for any regulation adopted pursuant to this
14457 act.

14458 7. That the Virginia Cannabis Control Authority (the Authority) may start accepting applications
14459 for licenses under this act on July 1, 2023, and shall, from July 1, 2023, until December 31, 2023,
14460 give preference to qualified social equity applicants, as determined by regulations promulgated by
14461 the Board of Directors of the Authority in accordance with this act. The Authority may issue any
14462 license authorized by this act to any applicant who meets the requirements for licensure established
14463 by this act and by any regulations promulgated by the Board of Directors of the Authority in
14464 accordance with this act. Notwithstanding the fourth enactment of this act, any applicant issued a
14465 license by the Authority may operate in accordance with the provisions of this act prior to January
14466 1, 2024; however, no retail marijuana store licensee may sell retail marijuana or retail marijuana
14467 products to a consumer prior to January 1, 2024. If a limit is placed on the number of licenses to be
14468 granted pursuant to this act, the Authority shall (i) from July 1, 2023, to July 1, 2028, reserve a
14469 license slot for a qualified social equity applicant for every license that was initially granted to a
14470 social equity applicant and was subsequently surrendered; and (ii) reserve license slots for all
14471 cannabis dispensing facilities and pharmaceutical processors that have been issued a permit by the
14472 Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act and issue
14473 a cultivation, manufacturing, wholesale, or retail license to any such cannabis dispensing facility or
14474 pharmaceutical processor that meets the applicable licensing requirements. The Authority shall
14475 develop and implement its diversity, equity, and inclusion plan pursuant to § 4.1-604 of the Code of
14476 Virginia, as created by this act, and publish resources to assist social equity applicants by January
14477 1, 2023. The Authority shall, in consultation with the Secretaries of Public Safety and Homeland

14478 Security, Transportation, and Health and Human Resources, develop and implement a health,
14479 safety, and safe driving campaign by January 1, 2023.

14480 8. That the initial terms of office of those persons appointed to serve as nonlegislative citizen
14481 members on the Cannabis Control Advisory Board pursuant to § 4.1-602 of the Code of Virginia,
14482 as created by this act, shall be staggered as follows: one member appointed by the Senate Committee
14483 on Rules, one member appointed by the Speaker of the House, and one member appointed by the
14484 Governor for a term of two years; one member appointed by the Senate Committee on Rules, one
14485 member appointed by the Speaker of the House, and one member appointed by the Governor for a
14486 term of three years; and one member appointed by the Senate Committee on Rules, one member
14487 appointed by the Speaker of the House, and one member appointed by the Governor for a term of
14488 four years.

14489 9. That the initial terms of office of those persons appointed to serve as nonlegislative citizen
14490 members on the Cannabis Equity Reinvestment Board pursuant to § 2.2-2499.1 of the Code of
14491 Virginia, as created by this act, shall be staggered as follow: five persons shall be appointed for a
14492 term to expire June 30, 2025; four persons shall be appointed for a term to expire June 30, 2026;
14493 and four persons shall be appointed for a term to expire June 30, 2027. Thereafter, nonlegislative
14494 citizen members of the Cannabis Equity Reinvestment Board shall serve for terms of four years.

14495 10. That the initial terms of office of those persons appointed to serve as nonlegislative citizen
14496 members on the Cannabis Public Health Advisory Council pursuant to § 4.1-603 of the Code of
14497 Virginia, as created by this act, shall be staggered as follows: five persons shall be appointed for a
14498 term to expire June 30, 2025; five persons shall be appointed for a term to expire June 30, 2026; and
14499 four persons shall be appointed for a term to expire June 30, 2027. Thereafter, nonlegislative citizen
14500 members of the Cannabis Public Health Advisory Council shall serve for terms of four years.

14501 11. That the Board of Agriculture and Consumer Services shall promulgate regulations to
14502 implement the applicable provisions of this act by July 1, 2022.

14503 12. That the Secretaries of Agriculture and Forestry, Health and Human Resources, and Public
14504 Safety and Homeland Security shall convene a work group with all appropriate state agencies and

14505 authorities to develop a plan for identifying and collecting data that can determine the use and
14506 misuse of marijuana in order to determine appropriate policies and programs to promote public
14507 health and safety. The plan shall include marijuana-related data regarding (i) poison control center
14508 calls; (ii) hospital and emergency room visits; (iii) impaired driving; (iv) use rates, including heavy
14509 or frequent use, mode of use, and demographic information for vulnerable populations, including
14510 youth and pregnant women; and (v) treatment rates for cannabis use disorder and any other
14511 diseases related to marijuana use. The plan shall detail the categories for which each data source
14512 will be collected, including the region where the individual lives or the incident occurred and the
14513 age and race or ethnicity of the individual. The plan shall also include the means by which initial
14514 data will be collected as soon as practicable as a benchmark prior to the effective date of an act
14515 legalizing marijuana for adult use, the plan for regular collection of such data thereafter, and the
14516 cost of the initial and ongoing collection of such data. The plan shall also recommend a timetable
14517 and determine the cost for analyzing and reporting the data. The work group, in consultation with
14518 the Director of Diversity, Equity, and Inclusion, shall also recommend metrics to identify
14519 disproportionate impacts of marijuana legalization, if any, to include discrimination in the
14520 Commonwealth's cannabis industry. The work group shall report its findings and recommendations
14521 to the Governor and the General Assembly by November 1, 2021.

14522 13. That the Virginia Department of Education (the Department), with assistance from appropriate
14523 agencies, local school divisions, and appropriate experts, shall implement a plan to ensure that
14524 teachers have access to sufficient information, resources, and lesson ideas to assist them in teaching
14525 about the harms of marijuana use among the youth and about substance abuse, as provided in the
14526 2020 Health Standards of Learning. The Department shall (i) review resources currently provided
14527 to teachers to determine if additional or updated material or lesson ideas are needed and (ii) provide
14528 or develop any additional materials and resources deemed necessary and make the same available
14529 to teachers by January 1, 2024.

14530 14. That the Secretary of Education, in conjunction with the Virginia Department of Education,
14531 shall develop a plan for introducing teachers, particularly those teaching health, to the information

14532 and resources available to them to assist them in teaching the 2020 Health Standards of Learning
14533 as it relates to marijuana use. Such plan shall include providing professional development webinars
14534 as soon as practicable, as well as ongoing periodic professional development relating to marijuana,
14535 as well as alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated
14536 cost of implementation and any potential source of funds to cover such cost and shall be submitted
14537 to the Governor and the General Assembly by November 1, 2021.

14538 15. That the Secretary of Education, the State Council of Higher Education for Virginia, the
14539 Virginia Higher Education Substance Use Advisory Committee, and the Department of Behavioral
14540 Health and Developmental Services shall work with existing collegiate recovery programs to
14541 determine what, if any, additional evidence-based efforts should be undertaken for college-aged
14542 individuals to promote education and prevention strategies relating to marijuana. The plan shall
14543 include the estimated cost of implementation and any potential source of funds to cover such cost
14544 and shall be submitted to the Governor and the General Assembly by November 1, 2021.

14545 16. That the referendum authorized by § 4.1-629 of the Code of Virginia, as created by this act, on
14546 the question of whether the operation of retail marijuana stores shall be prohibited in a particular
14547 county, city, or town may be held by such county, city, or town between January 1, 2022, and
14548 December 31, 2023, and the results of such referendum shall become effective on January 1, 2024.

14549 17. That effective July 1, 2021, the Regulations Governing Pharmaceutical Processors (18VAC110-
14550 60) promulgated by the Board of Pharmacy (the Board) shall remain in full force and effect and
14551 continue to be administered by the Board of Pharmacy until the Board of Directors of the Virginia
14552 Cannabis Control Authority (the Authority) promulgates regulations pursuant to the ~~fifth~~ sixth
14553 enactment of this act and no later than July 1, 2023. The Board shall provide assistance to the Board
14554 of Directors of the Authority in promulgating regulations by July 1, 2023.

14555 18. That the provisions of this act may result in a net increase in periods of imprisonment or
14556 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
14557 appropriation is _____ for periods of imprisonment in state adult correctional facilities;
14558 therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing

14559 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of
14560 Virginia, the estimated amount of the necessary appropriation is _____ for periods of
14561 commitment to the custody of the Department of Juvenile Justice.

14562 19. That § 18.2-250.1 of the Code of Virginia is repealed.

14563 20. That the provisions of Article 1.4 (§ 18.2-265.22 et seq.) of Chapter 7 of Title 18.2 of the Code of
14564 Virginia, as created by this act, shall expire on January 1, 2023.

14565 21. That the provisions of the second enactment of this act shall become effective in due course.

14566 22. That, except as provided in the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth,
14567 thirteenth, fourteenth, fifteenth, sixteenth, eighteenth, nineteenth, twentieth, and twenty-first
14568 enactments of this act, the provisions of this act shall not become effective unless reenacted by the
14569 2022 Session of the General Assembly.

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